

Regulation of the General Law of Electricity

GOVERNMENT AGREEMENT NUMBER 256~97

Guatemala, March 21st 1997.

The President of the Republic,

WHEREAS:

By Decree number 93-96 of the Congress of the Republic, the General Law of Electricity was approved in order to regulate the development of activities of generation, transmission, distribution and commercialization of electricity;

WHEREAS:

To the proper application of the General Law of Electricity, related standards shall be developed; and for this purpose it is pertinent to enact legal stipulations thereto;

THEREFORE:

In the exercise of his attributions conferred by Article 183, item e) of the Political Constitution of the Republic of Guatemala and based on Article 4 of the temporary stipulations of the General Law of Electricity;

AGREES:

To emit the following:

REGULATION OF THE GENERAL LAW OF ELECTRICITY REPUBLIC OF GUATEMALA

TITLE I GENERAL STIPULATIONS

CHAPTER I

DEFINITIONS

Article 1.- Definitions. To the effects of this Regulation, the following definitions are to be stipulated and incorporated into those contained in the General Law of Electricity.

High Voltage: (Amended by Article 1, Government Agreement No. 68~2007).

Level of voltage higher than sixty thousand (60,000) Volts.

Low Voltage: (Amended by Article 1, Government Agreement No. 68~2007).

Level of voltage equal or lower than one thousand (1,000) Volts.

Power Station: The group of one or more Electric Power Generating Units in the same place.

Co-generator: The owner of the power generating installations for its own use and the excess is sold to third parties.

Commission: The National Commission of Electric Power, established according to the General Law of Electricity.

Current Contracts: Electric power supply contracts among generators and distribution companies, subscribed before the enforcement of the Law and in force to the enactment of the Regulation.

Contracts to Term: (Amended by Article 1, Government Agreement No. 68~2007). A group of purchase and sale transactions of electricity agreed to a period through contracts among the agents of the Wholesale Market (MM), (for its initials in Spanish).

Failures Costs: The cost of the non-supplied power due interruptions in service, which shall be calculated based on the methodology stipulated by the Commission.

Marginal Cost to ShortTerm of Energy: (Amended by Article 1, Government Agreement No. 68~2007). The cost incurred by the Electric System in order to supply one additional kilowatt/hour (k/h) of energy to a determined level of demand of power, taking into account the park for generation and transmission effectively available. The value of the Marginal Cost to Short Term of Energy is applicable to the node of the National System Interconnected, in which the Marginal Generating Unit is located.

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Expected Marginal Cost to Short Term of Energy: Marginal Cost to short term of Energy expected as medium value during a determined forthcoming period; given the foreseen conditions of demand and offer of energy.

Marginal Cost to Short Term of Energy by Batch/Hour: Marginal Cost to Short Term of Energy calculated based on the average level of the power demand of one batch in a determined number of hours.

Marginal Cost per Hours of Energy by Node: (Amended by Article 1, Government Agreement No. 68-2007). To each node, it is the cost of supplying one additional kilowatt (kW) of demand in that node. Is the corresponding state of loadings at that hour.

Factor of Nodal Losses of Power: Amended by Article 1, Government Agreement No. 68-2007). It corresponds to the Factor of Nodal Losses of Energy during the peak hour of demand per year registered in the Wholesale Market.

Factor of Nodal Losses of Energy: (Amended by Article 1, Government Agreement No. 68-2007). The factor reflecting marginal losses in transmission to satisfy an increment of energy in one node through the increment of generation in the node of reference; for each node it is calculated as the quotient between the increment of generation in the node of reference, and the increment of the demand of energy in the node.

Short Duration Failure: (Amended by Article 1, Government Agreement No. 68-2007). It is defined as a short duration failure, the condition in which, due to ill-time failures in generating groups, in transmission lines, or in distribution networks, some of the Wholesale Market agents are not in capacity of satisfying the whole consumption of energy during periods less than forty-eight hours.

Long Lasting Failure: (Amended by Article 1, Government Agreement No. 68-2007). It is defined as a long lasting failure, the condition in which, due to the dry situation or the extended failure of the generating units, transmission lines or distribution networks, one of the agents of the

Wholesale Market is not in capacity to satisfy the whole consumption of energy during periods exceeding forty-eight hours. Long lasting failures condition will be reported to the Ministry and the Commission.

Unforeseen Circumstances: In unforeseen cases, testing loads are exclusively responsibility of that invoking it and will be qualified by the Commission in accordance with the Law.

Attributions of Carrier: (Amended by Article 1, Government Agreement No. 68-2007). One distribution company acting as carrier for one generator or major user connected to its medium or low voltage network.

Renewable Distributed Generation: (Added by Article 1, Government Agreement No. 68-2007). The electric generation mode, produced by generating technologies with renewable resources connected to distribution installations with network contributions of power lower or equal to five Megawatts (5 MW). To the effects of this Regulation, technologies with renewable resources are those using solar, aeolian, hydraulic, geothermal, biomass and other determined by the Ministry of Energy and Mines.

Renewable Distributed Generator: (Added by Article 1, Government Agreement No. 68-2007). The individual or juridical person, holder or owner of one Power Station for electric power generation using renewable energetic resources and participating in the Renewable Distributed Generation activity.

Major User: (Amended by Article 1, Government Agreement No. 68-2007). One consumer of energy whose demand of power exceeds one hundred kilowatts (kW) or the lower limit fixed by the Ministry in the future. Major users are not subject to price regulations, and supplying conditions are freely agreed with the distributor, or with any other supplier. To the effects of Article 59, Item c) of the Law, consumers rates with power demand equal or lower to one hundred kilowatts (kW), or the lower limit that in the future may be stipulated by the Ministry will be fixed by the Commission.

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Law: The General Law of Electricity, Decree 93-96 of the Congress of the Republic.

Line: (Amended by Article 1, Government Agreement No. 68-2007) The physical mean allowing electric power conduction between two points. The lines can be for transmission or distribution in accordance with their activity. The classification of transmission or distribution lines will be responsibility of the Commission based on technical criteria furnished by the Wholesale Market Administrator (WMA).

Medium Voltage: (Amended by Article 1, Government Agreement No. 68-2007). The voltage level higher than one thousand (1,000) volts, and lower than six thousand (60,000) volts.

Spot Market: (Amended by Article 1, Government Agreement No. 68-2007). A group of purchase and sale transactions of electricity to short term, non-based on contracts to term.

Ministry: (Amended by Article 1, Government Agreement No. 68-2007) The Ministry of Energy and Mines.

Node of Reference: (Amended by Article 1, Government Agreement No. 68-2007). Stipulated as the node of reference the Substation Guatemala Sur. This node of reference can be modified by the Commission.

Coordination Standards: (Amended by Article 1, Government Agreement No. 68-2007). Stipulations and procedures issued by the Wholesale Market Administrator (AMM), *(by its initials in Spanish)* and approved by the National Commission of Electric Power, in accordance with the General Law of Electricity, this Regulation, and the Regulation of the Wholesale Market Administrator in order to coordinate commercial and operation activities guaranteeing the continuity and quality of electric supply.

Technical Standards: (Amended by Article 1, Government Agreement No. 68-2007). The stipulations issued by the Commission in accordance with the Law and with this Regulation and in congruence with accepted international practices,

which shall be used for the complementation of the group of regulations on the activities of the electric sector.

Participants of the Wholesale Market: (Amended by Article 1, Government Agreement No. 68-2007). The group of agents of the Wholesale Market and the group of companies, which acting without this latest condition, perform economic transactions in the Wholesale Market, except those users of the final distribution service subject to price regulation.

Contracted Power: The power established in a supplying contract between a distributor and a user, binding the distributor to make it available at the request of the user at any moment. The power under contract gives the right of a maximum power demand equal to such value subscribed.

High-end Power: (Amended by Article 1, Government Agreement No. 68-2007). To the Wholesale Market, is the maximum/hour demand annually generated. To the distributor or major user it is its power demand coincident with the High-end Power of the National System Interconnected.

Steady Power: (Amended by Article 1, Government Agreement No. 68-2007). The committed power under contracts to cover Steady Demands.

Maximum Power: The maximum power that one Generating Unit is in capacity to supply to the network under conditions of temperature and atmospheric pressure at the site of its installation.

Primary Regulation of Frequency: (Amended by Article 1, Government Agreement No. 68-2007). The immediate regulation with a response time less than thirty seconds destined to equilibrate the instantaneous unbalances between the generation and the demand; it is performed based on generating units equipped with power automatic regulators.

Secondary Regulation of Frequency: (Amended by Article 1, Government Agreement No. 68-2007).

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The manual or automatic action to correct the production of one or more generating units in order to establish a frequency deviation produced by the unbalance between the generation and the demand; and allowing the units assigned to primary regulation to return to their powers programmed.

Transmission System Economically Adapted: (Amended by Article 1, Government Agreement No. 68-2007). The transmission system dimensioned in such way in order to minimize the total costs of investment, operations and maintenance; and also transmission losses to a determined configuration of offers and demands.

Residential Rate of Guatemala City: (Amended by Article 1, Government Agreement No. 68-2007). To the effects of the application of the Law and this Regulation, it is understood as residential rate of Guatemala City, the low voltage rate with no measuring of power demand, applied in the city of Guatemala as defined by the Commission.

Generating Unit: Machinery used to generate electricity.

Marginal Generating Unit: (Amended by Article 1, Government Agreement No. 68-2007). The generating unit in conditions to satisfy an increment in the demand and available to dispatch by the Wholesale Market Administrator (AMM), in accordance with the procedures stipulated in the pertaining Regulation.

CHAPTER II GENERAL

Article 2. ~ Application. Stipulations of this regulation are applicable, within the framework of the General Law of Electricity to generating, transmission, distribution and commercialization activities including import and export of electricity developed both by individual and juridical persons with private, mixed or state participation, independently of their autonomous status and regime of constitution.

Article 3.- Entities Responsible of its application.

The Ministry of Energy and Mines is the entity of the State responsible for the application of the General Law of Electricity and this Regulation, through the competent department and the National Commission of Electric Power, except when in competence of the Commission exclusively, according to the stipulations of the Law and this Regulation.

TITLE II AUTHORIZATIONS

CHAPTER I

AUTHORIZATIONS

Article 4.-Petitions for Authorizations: (Amended by Article 2, Government Agreement No. 68-2007).

Petitions for definitive authorizations for hydroelectric and geothermal generation, transmission and distribution plants will be submitted by those interested to the Ministry, in original and one copy using the forms prepared by the Ministry to this effect, which shall include at least the following information:

a) Identification of the petitioner.

Natural persons: provide personal data of the petitioner;

Juridical persons: provide identification data of the legal representative, name, firm or company of the petitioning entity, address and authenticated photocopy of the corporation charter and its modifications, if any. In case of temporary associations, the data shall be submitted for all the constituent parties.

b) Address and place for notifications.

The requirements must be fulfilled both by natural and juridical persons.

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- c) The description and general plans of the project, if authorizations for performing new works. Must be scale plans and detailed as determined by the Ministry.
- d) The schedule for the execution of the Works, if pertinent.
- e) The budget of the project, if pertinent.
- f) The location in a scale map determined by the Ministry of the area affected by the works. Specifications of public and private properties that will be used, individually of those owners with whom the interested party have not reached a direct agreement of purchase or rights of way for utilization. To this effect the interested party will furnish the address or place for personal notifications or summons of such owners or their legal representatives.
- g) h) In those cases of authorizations for Final Distribution Service, the delimitation of the zone requesting authorization and the definition of the mandatory area of service in relation to current and/or new installations identified in the petition.
- i) The Environmental Impact Assessment Study EIAS, approved by the pertaining environmental entity.
- j) For new transmission or generation installations with capacity higher than five (5) megawatts, electric studies showing the impact of the proposed works on the Transmission System as stipulated in Standards of Studies to Access the Transmission System (NEAST) (for its initials in Spanish), prepared by the Commission. Those with capacity lower or equal to five (5) megawatts, only electrical studies of loading flow are requested.
- k) Safety Plans for the installations in accordance with the Standards, about each specific subject as issued by the Commission.
- l) For hydroelectric or geothermal Power Stations; the exploration, development and exploitation plans of the resource.

The Ministry may require additional or more information about the points indicated in the previous items. This period of information may not extend the periods provided in the Law and this Regulation longer than the necessary for the petitioner to submit the information required.

The Ministry will carry out the registration of the petitions and approvals.

Article 5.- Granting of Definitive Authorizations. Definitive authorizations will be granted by Ministerial Agreement based on the qualification of the petition submitted. Previously to grant the Authorization the Ministry, in those cases established in Title II, chapters II, III and IV of this Regulation, shall publish the petition only one time and at the cost of the petitioner, in Diario de Centro América, and in other newspaper of large circulation. The Ministry will stipulate a period of eight days to allow other parties interested, to object or ratify their interest in the same authorization. In case of being more than one party interested, these shall ratify their interest in writing to the Ministry and shall submit a formal petition for authorization as stipulated in Article 4 of the Regulation within a period of 30 days maximum counted from the date of the publication. .

If any other parties interested in the authorization, a contest shall be performed for the election of the awarded. The Ministry will prepare the Terms of Reference for these contests, which must be adapted to the type of authorization as stipulated in Title II, Chapters II, III and IV of this Regulation.

The Ministry in all cases will decide about the petitions in 60 days maximum, counted from the date of their submission, in accordance with the stipulations in Articles 17 to 19 of the Law.

The Authorization will remain definitive by the subscription of a Contract of Authorization to be issued by the Ministry. The Contract will stipulate the obligations and guaranties of that authorized, and also procedures for cancellation, enlargement or extension of the authorization. Likewise the validity of the authorization and all in other respect as deemed necessary by the Ministry.

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Article 6.~Petitions for the obtainment of a temporary authorization will be submitted by the party interested to the Ministry in original and one copy, using the form prepared by the Ministry to this effect; and containing the following information:

- a) Identification of the petitioner, including the same data provided in paragraphs a) and b) of Article 4 of this Regulation.
- b) Type of study requested for the temporary authorization and the service to be rendered.
- c) The period for the temporary authorization; not exceeding one year.
- d) Location of public and private property to use.
- e) Description of the works to be executed and how they will affect the properties in which they are located.

Article 7.~ Granting of Temporary Authorizations.

Temporary authorizations may be granted at the request of any interested, for the study of works for electric power transmission and transformation, requiring authorization, and for the execution of generating works using hydraulic and geothermal resources, when the power of the Power Station exceeds 5 megawatts. Temporary authorizations allow studies, measuring and exploring of works in public and private properties, by compensating the owners for all the damages and losses that may be caused. The maximum period for a temporary authorization will be one year.

Article 8.~ Maximum Period for Temporary Authorizations. Temporary Authorizations will be granted by the Ministry in a period of 60 days maximum after the submission of the petition, previously verification that the interested party has submitted all the requested information and will publish it in the official journal and in other of large circulation at national level at account of the petitioner.

Article 9.~ Procedure for the determination of losses and damages. When developed activities under temporary authorization may cause damages and losses to the owners, holders or beneficiaries of the properties

not agreed between the parties, the affected individuals or companies will inform the Ministry filing a request stating the following:

- a) Identification data of the affected party.
- b) Identification data of that responsible of the damages.
- c) Description and quantification of the damages.

Within the following five days of the report, the Ministry, through the Office of the General Director of Energy, will verify and evaluate the damages or losses hiring for this purpose a qualified appraiser. The Ministry will notify the parties involved about the result of the performed appraisal. The responsible of the damages must pay the amount determined by the Ministry to the affected party and the expenses incurred by the Ministry within a period of 30 days maximum.

In case of the non-payment for damages or losses, the Ministry will revoke the authorization and will apply the stipulations contained in the Law for these cases.

CHAPTER II

TRANSMISSION AUTHORIZATIONS

Article 10.~ Electric Power Transmission. The authorization for electric power transmission is necessary, when for the route of electric transmission lines and transformer sub-stations, public property total o partially has to be used; or when rights of way have to be imposed to particulars. This requirement subsists although the use of public property or forced imposition rights of way to particulars is made only in one section of the route of the works. To these effects, street crossings, roads and highways are not to be considered as public property. These authorizations will be granted by Ministerial Agreement.

It is not necessary, for this type of authorizations, a public tender among eventual interested parties.

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Article 11.- Denial of the Use of Transmission Available Capacity. Transmission authorizations may be revoked, if although available capacity, the authorized denies a third party the use of the installations subject to render the service. The capacity verification of the line will be performed by the Ministry hearing the involved parties and taking into account the technical opinion of the AMM.

Article 12.- Reserves of Transmission Capacity. A generator or user of one transmission line of the secondary or transformer sub-station can reserve, by contracts, its capacity for transmission for the injection or withdrawal of electric power, when these in turn, have been bound by contract. In this case, meantime the generator or the user is not in physical occupation of the line or sub-station, the occupation is allowed to others by paying the respective toll.

Article 13.- Abrogation of the Authorization Contract. The Authorization Contract will include a clause of abrogation therein, when the Carrier exceeds the limit of penalties provided in this Regulation. The abrogation of the contract will terminate the authorization.

CHAPTER III

AUTHORIZATIONS FOR GENERATING POWER STATIONS

Article 14.- Hydroelectric Power Stations. Authorization is required for the utilization of hydraulic resources used for electric generation, when the Power Station exceeds 5 megawatts (MW). Whatever the power is, when for the construction of the Power Station, works of impounding are necessary that may affect the hydrologic system of a river or the safety of those persons or properties downstream. It will be necessary that the construction and operations of the installations be appropriate as stipulated by the Commission on this respect.

To guarantee the protection of people, their rights and properties, the Commission will prepare Safety Standards of Dams, which will include all aspects for design, examination, and operation of dams, likewise safety measures for operation, and emergency plans that may be necessary to

accomplish these purposes.

The authorization entitles the holder thereof to use public property during the development of the works included in the zone in which the activities will be developed, previous authorization of the competent authority.

The definitive authorization to use hydraulic resources requires the petitioner to file all environmental impact assessment studies (EIAS), installations safety, and emergency plans as stipulated by the Commission in the Safety Standards of Dams, and other Laws or stipulations regulating these issues.

When necessary due to the characteristics of the course of water resources, or because of the presence of several dams in the same river; or when not energetic use of water, the Ministry will include specific regulations for the Administration of the Water for each case.

The obligation to observe these Standards shall be stipulated in the Authorization Contract. The non-fulfilment implies the revocation thereof.

Article 15.- Mechanisms for Public Tender. In case of many parties interested in applying the definitive authorization for the construction of one hydroelectric Power Station in the same site, they shall compete to obtain the hydric resource exploitation in accordance with the terms provided in Article 5 of this Regulation. In relation to this situation, the Terms of Reference that will be prepared by the Ministry will be used. When the authorization is granted, it will be of exclusive nature. A Contract of Authorization shall be subscribed, and shall include a program of the execution of the works and the acceptance by the interested party to accomplish all the Safety Standards of Dams and the regulations for Water Administration; and the acceptance of the abrogation of the Contract in case of non-fulfilment. The abrogation of the contract will become the termination of the authorization.

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Article 16.- Geothermal Power Stations.

Authorization is required for the utilization of geothermal resources used for electric power generation, when nominal capacity exceeds 5 Megawatts (MW). Authorizations will be defined for the specific area applied. Temporary authorizations for studies will be granted for areas up to 10,000 square Km (Km²) maximum; and definitive authorizations for areas up to 100 square Km (Km²) maximum. Definitive authorizations shall include the authorized area to a sole geothermal resource in accordance with technical results of the studies.

Several parties interested can apply for the definitive authorization for the exploitation of the same area. In this situation, the Ministry will prepare the Terms of Reference for the Awarding of the Authorization for the Exploitation of Geothermal Resources. At the approval of the authorization, it will be for the specific area exclusively. A Contract of Authorization shall be issued and shall include the appropriate program of exploration plans, and if resulting satisfactory, also plans for development and exploitation of the resource, guaranteeing its optimum utilization taking into account the estimated potential of the geothermal field. The areas authorized as definitive cannot be overlapped.

In case of one of parties authorized desists to exploit the resource because the result is not economically convenient, this shall be informed immediately to the Ministry to cancel the authorization. The abandonment of the area stipulated by the authorization will be interpreted as the renunciation of the right to use the geothermal resource and therefore the renunciation of the authorization.

“Article 16 bis.- Development of the Renewable Distributed Generation: (Added by Article 3, Government Agreement No. 68-2007). The Distributors are compelled to allow connections to their installations and the performance of the necessary modifications or enlargements in order to allow the operation of the Renewable Distributed Generator, for which they have to determine the capacity of the point of connection and the necessary enlargements of their installations. Previously to the authorization, the Commission will evaluate the appropriateness of the scope of the modifications and enlargements of the installations of the Distributor, likewise the respective cost and the benefits from the

improvement of the quality of the distribution service and from the reduction of losses. The costs of the enlargements, modifications, transmission line and equipment, necessary to reach the connection point with the distribution network, will be on the account of the Renewable Distributed Generator.

The Commission will elaborate general stipulations and standards for the regulation of connection, operation, control and commercialization conditions of the Renewable Distributed Generator, including payments or credits by concept of toll and saving on losses, as pertinent and applicable and in accordance with the Law and this Regulation.

In case of operations not under contract, the Distributor will become the purchaser of the electricity generated by the Renewable Distributed Generator, by fulfilling the stipulations of the Law. The remuneration of power will be a ceiling price equal to the Price of Opportunity of the Power in the Wholesale Market; and will be considered the effective reduction of the losses.”

CHAPTER IV

FINAL DISTRIBUTION SERVICE OF ELECTRICITY

Article 17.-Final Distribution Service. Authorization is required for the installation and operation of distribution networks with nature of Final Distribution. The authorization entitles the holder to use public property in the area of the authorization, and to impose the rights of way to particulars according to the stipulations of the Law for distribution works development.

In all cases the authorization for the Final Distribution Service shall be granted by public tender as provided in Article 20 of the Law, and the stipulations in Article 5 of this Regulation related to public tender.

The Ministry shall initiate officially the processes for the awarding of authorizations for Final Distribution Service.

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Article 18.- Major Users. Major Users are not requested for authorization and will be entitled to hire electricity supply with one Generator or Trader. In this case they will pay a Toll to the Distributor in accordance with the stipulations of this Regulation. The Distributor will not be liable for the supply to the consumer when rationings are produced by insufficient generation in the Wholesale Market.

Article 19.- Reduction of the Limit of the Final Distribution Service. The Ministry may, in the future, reduce the limit of 100 Kilowatts (kW) to hire the supply with Generators or Traders, and can inclusive bring it to zero. This reduction shall be notified with two years in anticipation in order to allow the Distributors to adapt their contracts of steady power.

CHAPTER V

TERMINATION AND TRANSFER OF AUTHORIZATIONS

Article 20.- Termination of the Authorizations. The authorizations referred in this regulation shall terminate by any of the following causes:

- a) Abrogation of the authorization contract by the non-fulfilment on the part of the awarded of any of the obligations imposed thereon;
- b) Expiration of the period;
- c) Waiver of the awarded, previously qualified by the Ministry.

Article 21.-Other Causes for the Termination of the Authorization of the Final Distribution Service. The authorization for the Final Distribution Service ends, in addition to the causes established in the previous Article, by those stipulated in Article 55 of the Law. Likewise when the annual accumulated value of the fines due to faults in the quality of the service exceeds the limit established in the Distribution Service Technical Standards (NTSD). (For its initials in Spanish)

Article 22.-Other Causes for the Termination of the Authorization of Transmission Service. The authorization for Transmission Service shall terminate when:

- a) Those awarded incur in any cause established by the Law; or;
- b) By the abrogation of the authorization contract by the non-fulfilment by the awarded of any of the obligations imposed thereon.

Article 23.-Continuity of the Transmission Service. In case of the termination of the transmission service authorization, the awarded shall continue rendering the service until all the necessary measures had been taken to guarantee the continuity thereof.

Article 24.-Continuity of the Service. In any case, the termination of the authorization, whether for generation, final distribution or transmission, the holder of the authorization shall guarantee the continuity of the service and the fulfilment of Article 57 of the Law, which shall be included in the authorization contract. As a consequence, they shall not suspend the service in question until all the necessary measures are fulfilled. The holder will be responsible for the damages and losses caused by the non-fulfilment of this obligation.

Article 25.- Renunciation to Authorizations. The renunciation to one authorization shall be submitted in writing before the Ministry. In such document, the holder will explain the reasons that, in his opinion, justify the waiver. The Ministry will proceed to qualify such reasons and in a period of 60 days maximum will decide on the admissibility or the inadmissibility thereof. During such period, the Ministry will ask the Commission and the Wholesale Market Administrator their opinion on this matter. Such opinions shall indicate the impact that the waiver will have on the national electric system and the measures that, in their opinion, are necessary in order to minimize the impact and to guarantee the continuity of the service in case of the acceptance of the waiver.

The resolution approving the waiver shall indicate the measures that the holder has to take, in order to guarantee the continuity of the service. Until those measures are fulfilled the waiver will not be effective.

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Against the resolution denying the waiver, an appeal will apply for the reinstatement according to the Law on this matter.

Article 26.-Authorization Transfers. The transfer of one Authorization shall have the approval of the Ministry. Previously to the transfer consent, the authorized party shall file a petition before the Ministry containing the information of the individual or juridical person to whom the authorization will be transferred, accompanied by the agreement of the project between the parties of the transfer. The new authorized party shall comply with all the legal requirements under the Law and this Regulation in order to render the respective services.

Article 27.-Periods of the Transfers Authorizations. At the submission of the petition of the transfer to the Ministry accompanied by all the required information, the Ministry will have two months to authorize or deny the transfer. If after this period the Ministry has not decided, this will be understood as the approval for the transfer. In every case the Ministry cannot deny the transfer unfounded.

Article 28.- Formalization of the Transfer. The authorization for the transfer will be made in the same legal terms used as to granting the authorization, including a Contract of Authorization containing the same terms included in the one celebrated for the previous authorization. The transferring party will be responsible for the commitment of the continuity of the service, for which the authorization is pretended to transfer.

TITLE III NATIONAL COMMISSION OF ELECTRIC POWER

CHAPTER I

INTEGRATION AND OPERATIONS

Article 29.- Duties. The National Commission of Electric Power, hereinafter the Commission, will be the technical agency of the Ministry. The Commission shall be independent to operate, shall have its own budget and private funds. Duties of the Commission

will be the determination of prices and the quality of electricity transmission and distribution services subject to authorization. The control and guarantee competitive conditions in the Wholesale Market; and all the other responsibilities stipulated by the law and this Regulation.

Article 30.- Appointment of the Members of the Commission. The Commission will be integrated by three members appointed as stipulated in Article 5 of the Law. The determination of the list of three candidates that will be proposed to the Executive Body shall proceed as follows:

- a) 90 days before the date of the expiration of the period, for which the members of the Commission were appointed, the Ministry will announce openly in two newspapers of large circulation the appointment of the list of the three candidates according to Article 5 of the Law. Such announcement will indicate the place and time of the meeting.
- b) Rectors of the universities of the country will meet at the place and time indicated by the Ministry. The following sessions, if any, will be held at the place commonly agreed.
- c) Agents of the Wholesale Market will meet at the head office of the Wholesale Market Administrator the date indicated by the Ministry in the announcement.
- d) The rectors of the universities will decide by simple majority of the attendants. In order to the validity of the decisions, at least the half plus one of the rectors must be present. In case the necessary quorum is not reached, the rectors will meet the following day and will decide with the number of the attendants appearing.
- e) The agents of the Wholesale Market will be represented by four individuals appointed by each organization accredited before the Ministry, in groups of activity, as generators, carriers, and distributors. To the effects of this Article, the importers and exporters will be considered as

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members of the association of traders.

Each representative will have three votes. Such votes can be distributed in the way that each representative deems convenient, even to grant all votes to one candidate. The three candidates with more votes will integrate the three elected candidates that will be proposed to the Executive. The process to stand shall not be interrupted by the fact that one or more activities do not achieve the unification of its representation. If any tie between two or more candidates for the determination of the third candidate, a second round will take place only among the candidates with equal number of votes.

- f) The list of three candidates shall be submitted to the Ministry not later than fifteen days before the expiration of the period for the appointment of the members of the Commission.

To the effects of the stipulations of Article 5 of the Law, it is understood as “Not having relation with companies associated to the electric sub-sector regulated by this Law”, the fact of having shares, or commercial interest, or working relation with any of such entities.

Article 31.-Budget of the Commission. The budget of the Commission shall be covered with annual contributions made by the authorized electric distribution companies, and fines that the Commission may perceive according to the stipulations of the Law and this Regulation. For the quantification of the final sales of the distributors, sales to Major Users will be included. The contribution will be 0.3% of the final sales. The distribution companies shall inform the Commission before the 31st of October of each year about their estimations on sales for the following year. Based on these estimations the Commission will prepare its annual budget.

The amount of payment of each contributor will be notified in writing by the Commission before the 31st of December of each year, and will be paid in monthly payments.

Article 32.- Use of the Budget. The budget will be used by the Commission for its operations, contracts

of studies, technical advice, and the elaboration of documents required by this Regulation. For the performance of its operations, the Commission is entitled to hire a maximum of 18 persons as permanent staff.

Article 33.- Preparedness of the Budget. The Commission, not later than the 30th of November of each year, shall approve its budget for the following year. The remuneration of the members and permanent staff will be determined by the Commission based on competitive and market prices for the type of activity performed.

The budget for incomes and outcomes of the Commission for the commencing year and the execution of the budget of the previous year, duly audited by an external auditor, will be published in official journal during the first sixty days of each year.

Article 34.- Sum up of contributions. Distribution companies shall pay their monthly contributions before the last working day of each month. The non-payment of contributions, the way and times established in this regulation, will be penalized with a fine equal to the amount of the unpaid quotas; this stipulation, not in detriment for the initiation of juridical actions forward to the collection of pending payments.

Article 35.- Presidency of the Commission. The President of the Commission will be appointed by government agreement, in which its member will be appointed. The President will perform executive activities and will be entitled to subscribe contracts related to the operations of the Commission.

Article 36.- Internal Regulation. The commission in its internal regulation will stipulate the standards for its operation, and shall to be published within a period of six months maximum after its constitution, and will be approved by Ministerial Agreement.

Article 37.- Communication of the appointment of the members. Communications of the appointment of the members of the commission, besides renovation and substitutions shall be made by Government Agreement.

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TITLE IV THE WHOLESALE MARKET

CHAPTER I GENERAL

Article 38.- Specific Regulations of the Wholesale Market Administrator. The Ministry shall file before the Executive Body, in a period of 5 months maximum, counted from the date of the publication of this regulation, the Specific Regulation ruling the operations of the Wholesale Market Administrator. The Regulation shall include both the regulations relative to the operations methodology and the Wholesale Market Administrator organization, its functions, obligations and financial mechanisms. Also, all those related to the operations and coordination of the Wholesale Market (MM).

“Article 39.- Agents of the Wholesale Market: (Amended by Article 4, Government Agreement No. 68-2007). Generators, traders, distributors, importers, exporters and carriers are agents of the Wholesale Market performing under the following limits:

- a. Generators: To have a Maximum Power not higher than five megawatts (5 MW);
- b. Traders: To purchase and sale power batches associated to a Steady and Efficient Offer or Steady Demand of at least two megawatts (2 MW). The same limits will apply to importers and exporters;
- c. Distributors: To have a minimum of fifteen thousand (15,000) users;
- d. Carriers: To have a minimum transmission capacity of ten megawatts (10 MW).

Such limits will be revised periodically and may be modified by the Ministry in order to make them suitable to the reality of the electric markets.”

TITLE V TRANSMISSION SYSTEM

CHAPTER I

GENERAL CHARACTERISTICS

Article 40.- Activity of the electric power transmission. Transmission Service of Electric Power (STEE), *(by its initials in Spanish)*, The activity subject to Authorization propose for linking up electrically, Generators with the Distributors or Major Users; and points of interconnection with electric systems of nearby countries, using installations in property of carriers or other agents of the MM.

Article 41.- Agents Connected to the SNI *(by its initials in Spanish)*, using the Installations of one Distributor. When distributors, generators or Major Users are connected to the SNI using the installations of one distributor, it will not consider by this fact, the Distributor as the carrier, or its installations as part of the Main or Auxiliary system. This case will apply as stipulated in the following Article.

Article 42.- Duty of Carrier. All distributors that inside their installations are connected Major Users, Generators, or other Distributors, shall render transmission services thereto as stipulated in this Regulation. This service will be called the Duty of Carrier.

Article 43.-Application of Standards to the Electric Power Transmission Service. All installation owners dedicated to render Electric Power Transmission Service (STEE), whether of the main system or auxiliary system, will be subject to the standards to carriers stipulated in this Regulation.

Article 44.- Registration of Carriers and their Installations. The Commission will identify and maintain the list of all the STEE installations updated in the Main and Auxiliary system. And of all Duty of Carrier servers, and interconnection points among Generators, Distributors, and Major Users with the STEE servers or duty of carrier function respectively.

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Main System installations being linked to each other and with interconnected generation to main centers of consumption; are those that can be considered of common use by the generator of the MM.

Article 45.- Technical Standards for Transmission.

The commission within a period of eight months maximum, later to its constitution, will elaborate Technical Standards for Design and Operation of the STEE, which will include all technical and operation standards guaranteeing safety installations and the quality of the service.

Article 46.- Information on Adverse Effects to the Electric Power Transmission System. The carriers shall inform the AMM and the Commission, if any installation of its own or in property of a third party produces or may produce any adverse effect on the STEE.

If the Commission with the advice of the AMM ratifies the criteria of the carrier, the carrier will be entitled to request the execution of the corrective or preventive measures to guarantee the continuity and quality of the service.

If the characteristics of the adverse effect were such to put in danger the safety of the personnel, the equipment and the continuity of the service, the carrier, under its own responsibility, and previous notice to the AMM, can de-energize those installations causing the problem until the final decision of the Commission on this regard.

CHAPTER II

ACCESS TO THE CAPACITY OF CURRENT TRANSMISSION

Article 47.-Standards to the access the Transmission Capacity. The Commission, under the advice of the AMM, will elaborate Technical Standards to Access and Use Capacity Transmission (NTAUCT), (for its initials in Spanish). This document will include mandatory requirements and studies to be performed and submitted by each MM agent or Major User, decided to built new installations or to make enlargements to the current ones, which implies a modification in the interchanged power. The NTAUCT shall be prepared and will come into force

eight months after the constitution of the Commission.

“Article 48.- Petition to Access Transmission Capacity: (Amended by Article 5, Government Agreement No. 68-2007). All new users of the Electric Power Transmission Service (STEE), applying to access the current transmission capacity shall file the request before the Commission.

The petition shall include the following information:

- a) Description of technical characteristics of the installations of the generator or user and those linking up the Electric Power Transmission Service (STEE).
- b) Date estimated to start up the service of their new installations.
- c) Demand or generation estimated to be interchanged at the connection point during a period of four (4) years.
- d) Studies of the effect of its connection on the Transmission System as stipulated in Technical Standards of Access and Use of Capacity Transmission (NTAUCT).
- e) Proof of submission of the required environmental studies to the pertinent environmental entity, in accordance with the requirements for each type of installation.

“Article 49.- Evaluation of the Petition: (Amended by Article 6, Government Agreement No. 68-2007). The Commission with the advice of the Wholesale Market Administrator (AMM) and the carrier involved will evaluate the request and will authorize the connection, making it conditional to perform additional investments, in order to amend negative effects that may be caused due to its connection.

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Previously to the approval of the petition, the interested party shall file before the Commission the proof of the authorization of the pertinent environmental studies, issued by the pertinent environmental entity.

If the commission may not decide about the petition in sixty (60) days, it will be deemed as approved. In this case the Commission will be responsible for the adverse effects that may be observed by the Wholesale Market Administrator (AMM) or the carrier.

The Commission will verify, previously to the authorization for the connection of the petitioner, that all the required investment have been made, and will refuse the authorization until those investments are concreted. Verification costs will be on the account of the petitioner.

CHAPTER III

ENLARGEMENTS TO THE TRANSMISSION CAPACITY

“Article 50.-Mode for Enlargements: (Amended by Article 7, Government Agreement No. 68-2007). The construction of Electric Power Transmission Service (STEE) new lines or sub-stations will be made through the following modes:

- a) By Agreement between the parties.
- b) By Own Initiative.
- c) By Public Tender.”

“Article 51.-Petition for Enlargement: (Amended by Article 8, Government Agreement No. 68-2007). In modes a) and b) of the previous article, those interested and requiring the enlargement, have to submit the petition for the authorization to the Commission, which shall include at least the following information:

- a) Identification and information of the petitioners.
- b) Mode of the enlargement.
- c) Description of the installations that are considered to be incorporated.
- d) Technical studies verifying that the proposed installations are appropriate in accordance with Technical Standards of Design and Operation of

the Electric Power Transmission Service (STEE).

- e) Electrical studies evaluating the effect of the new installations on the current transmission systems in accordance with Technical Standards to Access and Use Transmission Capacity (NTAUCT).
- f) Additional information required in Article 48 and that related to the selected mode of the enlargement described in Articles 52 and 53 of this Regulation.

For enlargements performed as the result of the Expansion Plan of Transmission System, bases of the Tender will indicate the requirements that shall be fulfilled by those interested and those awarded.

The Commission will study and decide about the authorization. The Commission, in all cases, can make it conditional to performance of modifications to the project, in order to make it appropriate for the accomplishment of Technical Standards of Design and Operation of Transmission in force. At the authorization of the enlargement, the interested party, previously to the execution of the work, shall obtain the approval of the environmental studies, issued by the respective department of the environmental entity.

Article 52.- Ownership of the Enlargement Installations. The enlargement installations dedicated to STEE may be:

- a) The property of one present carrier for enlargement of its installations,
- b) The property of a company formed for construction and operation purposes of transmission systems,
- c) The property of Generators, Major Users or Distributors rendering Final Distribution Service, constructing their own lines corresponding to the Auxiliary system in order to connect the SNI These lines by decision of the builders, may be delivered in operation or in property to current carriers,

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- d) The same options can be used to build international interconnection lines.

Technical standards that will be issued by the Commission with respect to the extension of transmission will stipulate the procedure that has to be followed by those interested in each case, and the requirements that must be fulfilled to obtain the authorization as well.

“Article 53.-Enlargement upon Agreement between the Parties by Own Initiative: (Amended by Article 9, Government Agreement No. 68-2007). For enlargements agreed between the parties and by own initiative, those interested can build, operate and maintain the installations destined to electric transmission, allowed to agree with one carrier the property, the price and payment conditions for the construction, operation, and maintenance of the new installations.

The installations performed by these modes will be considered as the property of the Auxiliary System. The Commission in a period of sixty (60) days maximum will decide about the admissibility or inadmissibility of the authorization for the construction of new installations. This period will be counted from the date that the petition has been fulfilled with the presentation of all the requirements established by the Commission. In case of a new transmission company, previously to operate shall have the respective authorization by the Ministry.

The Commission shall make the authorization conditional to the performance of complementary works to avoid negative effects for current installations of the Electric Power Transmission Service (STEE). The start-up of these installations shall be conditioned to the effective execution of the required complementary works.

Previously to the connection to the Electric Power Transmission Service (STEE), the Commission can hire the necessary advising or consulting services for the supervision, verification and acceptance of the new installations and their complementary works on the

account of the owner of the installations.

stipulate the procedures that those interested have to follow in each case, and the requirements that they have to fulfil for the obtainment of the authorization(s) as well.

“Article 54.- Technical Entity Specialized and the Expansion Plan of the Transmission System: (Added by Article 10, Government Agreement No. 68-2007). The Ministry in a period of twelve (12) months, counted from the date of the validity of this Agreement must create a Specialized Technical Entity entitled to elaborate the Expansion Plan of the Transmission System. The Ministry, through this entity, and with the participation of the institutions intervening in the electric sub-sector, will elaborate the Expansion Plan of the Transmission System.

The Expansion Plan of the Transmission System shall be prepared every two (2) years, and shall cover a scope of ten (10) years minimum. The plan shall take into consideration generation projects in construction, and those evidently that will become into operations within the scope of the mentioned study.

For the preparedness of such Expansion Plan, the Wholesale Market Administrator (AMM) will provide technical advice consisting in performance technical studies and furnishing the necessary information that may be required to shape the behaviour of the Electric Power Transmission Service (STEE), including characteristics of the current transmission system and its restrictions. The Wholesale Market Administrator (AMM) shall submit the information to the technical entity before the first (1) day of May of the year to which the elaboration of the Plan is pertinent.

The specialized Technical Entity will determine the stage of expansion of the most likely international generation and interconnections hearing current generators and those interested in developing Power Stations. Any Participant of the Wholesale Market is allowed to request the inclusion of transmission works to be considered in such Plan, submitting the studies showing the benefits that may be obtained by the Electric Power Transmission Service (STEE) and the group of operations of the Wholesale Market with their performance

The Commission will elaborate technical standards The Expansion Plan of the Transmission System, related to the extension of transmission and will

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independently from the level of voltage, shall comply with the criteria, methodology and definitions stipulated in the Transmission Technical Standard – NTT~ (*by its initials in Spanish*), issued by the Commission as to consider the electric supply, necessary to satisfy the future demand of the system, minimizing:

- a) The updated and total cost of investment and operation of transmission works that must be executed, including the losses in the lines.
- b) The variable costs of the operations of current and future generating power stations, but not the investment or fixed costs of operation and maintenance.

The Plan will be elaborated before September thirty (30) of the respective year and its result will be filed before the Commission and the Wholesale Market Administrator (AMM), during the first week of October. These entities can express their observations within the following thirty (30) calendar days, and the specialized Technical Entity can accept or reject them within the following fifteen (15) calendar days. In this last case it shall support it upon specialized, technical and economical studies.

When the process of the elaboration of the Plan is over, it shall be published by the Ministry, the first fifteen days of January of the following year.

“Article 54 Bis.~ Enlargements by Public Tender: (Added by Article 11, Government Agreement No. 68-2007). Within the following two (2) months of the publication of the Enlargement Plan of the Transmission System, the Commission will determine the works that will be part of the Main System as stipulated in the Law, this Regulation, the report submitted by the Wholesale Market Administrator (AMM) to this effect; taking into account the following criteria:

- a) Specific use or activity of the transmission works independently from the level of voltage.
- b) Guarantee of free access to the Electric Power Transmission Service (STEE).
- c) Benefits contributed to the operations group operations of the Wholesale Market.
- d) Congruence with the energetic policy of the country.
- e) International Agreements of energetic

integration. .

Works of private use are excluded from the Main System. Works identified as part of the Main System and necessary for the first two (2) years, must be under contract by tender as mandatory.

The Commission within the following three (3) months from the definition of the mandatory execution works under contract by tender, will elaborate the bases for the Open Tender and will file them before the Ministry for approval. The Ministry will have one (1) month for the final approval of the bases; and six (6) months to perform the Tender.

Tender bases will include criteria and procedures to qualify the canon of the amortization period and for the awarding of the tender. Those interested and appearing in this Tender shall specify the canon that they expect to receive for their construction, operation, and maintenance of the installations. The Commission, previously to the final awarding will decide about the admissibility or inadmissibility in relation to the price of the canon expected to be converted into rates. The Ministry based on the determination of the Commission, can declare the Tender deserted for not to be convenient to the interests of the Country. The awarding includes the granting of the authorization as Carrier, if necessary, and the awarded shall comply with the requirements of the Law.

The Commission can hire the advising or consulting services necessary for the supervision, verification and acceptance of the new installation and its complementary works, previous connection to the Electric Power Transmission Service (STEE), on the account of the awarded.”

CHAPTER IV

TOLL SYSTEM FOR THE STEE

“Article 55.~Toll Calculation: (Amended by Article 12, Government Agreement No. 68-2007). The Carrier will receive in annually basis for its installation dedicated to the Electric Power

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Transmission Service (STEE), divided into twelve monthly payments and in anticipation, a remuneration called Toll, freely agreed by the parties. In case of non-agreement between the Carrier and the User of the Electric Power Transmission Service (STEE), the Commission will stipulate the maximum toll based on the following:

- Annuity of the investment of the installations of a Transmission System Economically Adapted, taking into consideration a capital recovery factor obtained with the updated rate stipulated by the National Commission of Electric Power according to the General Law of Electricity and a lifetime of thirty (30) years.

□ The annual costs of operation, maintenance and administration will be 3% maximum of the total cost of investment mentioned in the previous paragraph. This percentage can be modified by the National Commission of Electric Power based on technical studies.

- a) For current installations of the Main System of Transmission, a maximum toll price proportional to the Steady Power calculated dividing the annual cost of transmission of the Electric Power Transmission Service (STEE) of the main system, into the Total Steady Power of the National System Interconnected.
- b) For current installations of the Auxiliary System, a maximum toll price proportional to the Steady Power calculated dividing the cost of transmission of the Electric Power Transmission Service (STEE) of the respective auxiliary systems, into the Total Steady Power related to the respective auxiliary system.
- c) For new installations the Toll will be:

For installations built by Agreement between the Parties or by Own Initiative, the Toll will be the cost agreed between those interested and the Carrier, which shall be paid by the first. The auxiliary systems will be subject to free access previous payment of the respective tolls.

For installation built by Public Tender

mode, the Toll will have two remuneration periods:

Amortization Period: In which the Carrier will receive as sole remuneration the annual canon, which will be paid in proportion of the Steady Power and will be divided into twelve (12) equal quotes to be paid in monthly basis.

Operation Period: Will be the subsequent period to the amortization, in which the Carrier will receive exclusively the toll corresponding to the Transmission Main System approved by the National Commission of Electric Power.

- d) The Commission will evaluate to incorporate international interconnections to the main system of transmission, in accordance with the benefits for the group of operations of the Wholesale Market. The respective coordination Standard will be developed in relation to the toll of these systems."

CHAPTER V

QUALITY SYSTEM OF THE TRANSMISSION SERVICE

Article 56.-Quality Standards of the Transmission Service. The Commission will elaborate in a term of eight months counted from its formation, Quality Standards and Techniques of the Transmission Service and Sanctions (NTCSTS), *(by its initials in Spanish)*, based on the concepts established in this regulation, including a system for sanctions by non- fulfilment.

In these standards the obligations of the Generators, Distributors and Major Users directly connected to the Transmission System, will be stipulated in relation to the regulation of voltages.

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Article 57.-Quality Service Evaluation. The quality of the STEE rendered by the Carriers will be evaluated based on the availability of the equipment for transmission, connection and transformation, and its associated capacity. Quality parameters will be evaluated as stipulated by the NTCSTS.

Article 58.- Definition of non-availability. The equipment is deemed non-available when this or another equipment associated to its protection or operation is out of order.

Article 59.- Programmed non availability. All the equipment associated to the STEE not in operation as a consequence of a programmed maintenance according to procedures established to this effect by the AMM, will be considered in Programmed non-availability condition.

Article 60.- Forced non-availability. All the equipment associated to the STEE not in operation and not by the orders for operations of the WMA, or in Programmed Non-availability, will be considered in Force Non-Availability.

Article 61.- Communication means required for the commercial evaluation. When the Carrier does not implement means of communication required for the evaluation of the commercial system and does not collect the information in time and form, or impede the transmission of such data through its installations, the AMM will decide the viability means to access the data of the carrier.

Article 62.-Responsibility of the Wholesale Market Administrator. The Commission will be in control of the fulfilment of the stipulated standards and the AMM will administrate their application.

CHAPTER VI

CHARGES FOR TRANSMISSION

CONNECTION

Article 63.- Definition. Charges for connection are those incomes that the Carrier receives for the installation, operation and maintenance of the necessary equipment to allow the connection of one

Generator or Major User to its installations to transform the power delivered into transmission voltage.

These charges will be calculated upon the same criteria applied for the calculation of the Toll.

Charges for connection will be paid by the Generators connected at each node in proportion to its power connected to such node.

Charges for connection will be paid to Major Users connected to each node in proportion to the power exchanged each month.

CHAPTER VII

TOLL FOR SERVERS OF DUTY OF CARRIER

Article 64.- Tolls of Duty of Carrier. The servers of Duty of Carrier will be paid for the use of their installations a maximum Toll equal to the Distribution Value Added calculated in function of the Coefficients of Losses and the Maximum Power demanded or generated by the User requiring the service, plus the losses included in the calculation of the Base Rate for the level of voltage to which it is connected.

TITLE VI GENERAL CONDITIONS OF THE DISTRIBUTION SERVICE

CHAPTER I

DISTRIBUTION

Article 65.- Obligations of the Supply. All the Distributors authorized to render the service in one zone are bound to connect its networks to all those consumers requiring and located within a band, which shall not be smaller than 200 meters around its installations.

“Article 65 Bis. Procedure of the Tender to Add New Generation: (Added by Article 13,

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Government Agreement No. 68-2007). The Final Distributor shall convene an open tender in order to hire the supply guaranteeing its requirements of power and electric power for a maximum period of fifteen (15) years.

The tender shall be performed with five years minimum in anticipation to the initiation of the supply that is pretended to be under contract. The Commission can reduce this period when necessary.

Taking into account the needs of the Distributors and the Expansion Plan Indicative of Generation stipulated in Article 15 "Bis" of the Regulation of the Wholesale Market Administrator, the Commission will prepare the terms of reference defining the criteria that the Final Distributors shall meet to elaborate the bases for the open tender to perform the processes for the acquisition of power and energy. Bases of tender elaborated by the Distributor shall be submitted for the approval to the Commission that will decide the admissibility or inadmissibility, within the following thirty (30) calendar days. At the approval of the bases, the Distributor shall call for an open tender in a maximum period of ninety (90) calendar days.

The period for the submission of offers shall not be less than six (6) months and not larger than twelve (12) months and the contract shall be effective within the following three (3) months of the awarding. The period for the contract shall include two stages: first, construction; and second stage: commercial operation, which shall not exceed a period of fifteen (15) years maximum

When derived from the subscribed contracts the result of the tenders stipulated in this article brings excess of power and energy, these can be trade by the contracting Distributors in the Wholesale Market or in the Regional Market.

The term for contracts from Public Tenders performed by distributing companies rendering the Final Distribution Service, shall not be extended by any reason.

"Article 66. Consumers Out of the Zone: (Amended by Article 14, Government Agreement No. 68-2007). All those interested in electric supply outside the

mandatory area, and who reaches the limit through its own lines or through those of a third party, will be entitle to the supply of all the demanded power and electric power by the distributor. To obtain the service, those interested shall submit a petition in writing to the holder of the authorization, and if necessary, shall make reimbursable financial contributions as stipulated in this Regulation.

Electric installations described in the previous paragraph shall comply as established in Technical Stipulations of Design and Operation of the Distribution Installations (NTDOID), (*by its initials in Spanish*), and the Technical Standards of the Distribution Service (NTDS). The distributor, previously to the connection, will perform the pertinent revision and shall not impose design criteria different to that approved by the Commission.

Article 67.- Link up. The link up will be responsibility of the Distributor. When the consumer is out of the authorization zone, the Distributor can require that the installations of the consumer be appropriate to the NTDOID prepared by the Commission.

"Article 68. Periods of Connection for Electric Supply: (Amended by Article 15, Government Agreement No. 68-2007). The Distributor, previously to authorize the petition for connection of electric supply and within seven (7) days maximum counted from the date of the reception of the petition, shall determine whether the capacity of the respective distribution lines, is sufficient to render the required service, or if it is necessary to make enlargements. Within this period, the Distributor shall notify the interested party about the authorization for connection, the detail of the amount of payments and the guarantee deposit that shall be made.

At the moment that the interested party has made effective the payments and the deposit in guarantee, the Distributor:

- a) If enlargements are not necessary, shall connect the required service in a maximum period of twenty eight (28) days.

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The non-observance of the above mentioned terms will be deemed a serious fault and will be subject to a sanction and, in case of repeated non-fulfilments the Commission can request the Ministry the abrogation or cancellation of the respective authorization.

Article 69.- Contract for Supply. All Users requesting electric supply shall subscribe a contract with the Distributor as stipulated in the service standards of each Distributor. These standards will be approved by the Commission

The contract with the Distributor shall stipulate at least the following information:

- a) Name or company name and address of the user.
- b) Type of rate to be applied and the period of validity of the rate.
- c) Acceptance of the rights and sanctions stipulated in this regulation.

The Distributor shall submit one copy of the contract to the user.

Article 70.- Measuring Equipment. The measuring equipment will be the property of the Distributor, except in those cases of Major Users that shall be ruled by the stipulations on this matter established by AMM. The Distributor will have simple access to measuring, in order to perform the invoicing and to carry out the revisions of the equipment as they are necessary.

“Article 71.- Reimbursable Contribution: (Amended by Article 16, Government Agreement No. 68-2007). For supplying resources or enlargement of the power under contract within the mandatory area, or those out of the mandatory area, coming into through their own lines, or through the lines of a third party; the Distributor will be able to request the users a monetary contribution of reimbursable nature. These values shall be published by the Distributor in a national and large circulation newspaper and will be established upon the level of voltage, and they cannot exceed the

maximum value stipulated by the Commission to these effects.

The interested party shall give the contribution to the Distributing Company at the moment of the subscription of the respective contract.

For the case of installations developed according the Article 47 of the General Law of Electricity, connections within the mandatory band of two hundred (200) meters will be made by the Distributor without request of the reimbursable contribution to the user.

“Article 72.-Refund of Reimbursable Contribution: (Amended by Article 17, Government Agreement No. 68-2007). The refund of the reimbursable contribution shall be that to guarantee the interested party or the user of the Distributor, the total recovery of capital originally contributed, plus a remuneration of capital resulting from the application to the amount of the reimbursable contribution, the current interest rate estimated monthly of the banking system, published by Bank of Guatemala and three (3) additional points. The Distributor and the User may agree the refund period, which shall not exceed five years in any case.”

Article 73.- Refund system of reimbursable contributions. The Distributor Company at the moment of the payment of this contribution by the user, shall indicate the refunding system of the reimbursable contribution, its valuation and dates of payments. The refunding instruments shall be given to the user in a maximum period of two months, counted from the effective date of the reimbursable contribution.

Article 74.-Refund of reimbursable contributions in bonds or titles. When the refund is made by bonds or titles of acknowledgment of debt, it shall indicate that the payments are to include a readjustment by inflation and a real interest of 15% per year.

Article 75.- Excess of Demand. The user using a higher demand than the one under contract shall pay the Distributor the demand in excess, in accordance

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with the stipulations of the NTSD, not in detriment of the reimbursable contributions pertinent to be reintegrated.

Article 76.-Cut of the Supply. The Distributors may cut the service immediately, because of the reasons and conditions stipulated in Article 50 of the Law.

Article 77.- Projects of Rural Electricity. To the application of Article 47 of the Law, the Ministry will establish a procedure for the preparedness of the economic and social report of the project, in order to decide the admissibility or inadmissibility of the petition.

CHAPTER II

COMPLEMENTARY STANDARDS

Article 78.- Technical Standards to be prepared by the Commission. The Commission shall prepare in eight months maximum after its formation, the following Technical Standards:

- a) Technical Standards of Design and Operation of the Distribution Installations (NTDOID), including all the necessary requirements for design and operation of the distribution installations allowing the protection of people and properties; and the system for non-authorization and penalization by the non-fulfilment of the stipulations of these Standards as well.
- b) Technical Standards of the Distribution Service (NTSD), including the quality system of the distribution service in accordance with the stipulations of Article 103 of this regulation, the sanctions associated to the quality of the service, fines and non-authorizations to consumers due inappropriate installations, self-connection, robbery and non-payment.
- c) Other standards included in this regulation.

The Commission upon its criteria, can make enlargements or elaborate other complementary standards.

CHAPTER III

MAXIMUM DISTRIBUTION PRICES

Article 79.- Ceiling Prices of Distribution. Ceiling prices of Distribution for each voltage level will be calculated, and will include Base Rates and formulas of periodical adjustment in accordance with Articles 77 and 78 of the Law. Base Rates for each voltage level include:

- a) Charge per Consumer,
- b) Charge per High-end Power,
- c) Charge per non-High-end Power.
- d) Charge per Energy.

Base rates will be adjusted periodically by the application of formulas reflecting the variation of the distribution costs. The Commission will determine the period for adjustment. The components associated to the purchase costs of energy and power will be previously amended in accordance with the stipulations of Articles 86, 87 and 88 of this Regulation.

Article 80.- Structures of Rates. The Commission will approve by Resolution for each Distribution company, the options of the structures to fix rates on sales to consumers under the limit fixed in the definition fixed as Major User in the zone in which it was authorized to render the service, applicable to categories of consumers defined in function of supplying and consumption characteristics of electricity, based on the charges mentioned in the previous article or on a combination thereof.

For each component of the structure of rates in low voltage, the Distributor can propose subcategories to the Commission, in function of the loading density of the supplied zone.

Article 81.- Uniform System of Accounts. The Commission will prepare and will adopt a Uniform System of Accounts, which shall be used for the registration of costs and incomes associated to the service.

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Article 82.- Costs of Supply. Supply costs for calculations of Base Rates and for each voltage level, will be approved by the Commission by Resolution and will be based on the structure of one efficient company.

Supply costs will be calculated annually for the scope of the estimation that may be required including: costs of purchases of electricity, costs of installations, costs of consumers, taxes and custom duty tariffs, costs of maintenance, and administrative costs and general costs; also other costs related to the supply and approved by the Commission and included in the Uniform System of Accounts detailed as follows:

- a) Costs of purchases of electricity correspond to generating costs plus those charges for the use of the transmission system; plus charges for the losses of energy and power in transmission and sub-transmission lines. The cost of generation and energy and the losses of power will be calculated in accordance with the methodology established in the specific regulation of the Wholesale Market Administrator.
- b) Costs of installation correspond to repaying costs of all the equipment used to supply energy to users at the moment that the rates are calculated. These costs will be obtained in accordance with the concept of one efficient company. The annuity of investment will be calculated at the current rate calculated by the Commission, based on the studies under contract with specialized companies, and shall be based on the profitability of the activities performed in the country with similar risk.
- c) Costs of consumer include: supervision, manual labour, materials and costs of the activities of measuring, invoicing, collecting, registration of users and others related to the commercialization of electricity.
- d) Taxes and rates to be considered will be those stipulated by the Law to the Distribution activity and becoming a cost for the Distributor, except Income Tax.
- e) Costs of operation include: supervision, operating

engineering, manual labour, materials, loading dispatch, operation of the installations, rent of installations and other related with the operation of properties related to the Distribution activity.

- f) Costs of maintenance include: supervision, maintenance engineering, manual labour, materials, and maintenance of equipment, installations, structures, buildings and other related to the maintenance of the properties related to the Distribution activity.
- g) Administrative and general costs include: administrative and general salaries, including social benefits, materials, office expenses, external services under contract, insurances on properties, rentals, regulation and investigation expenses; maintenance of property in general and other related to administration.
- h) A reasonable component for sanctions corresponding to that company rendering the appropriate quality of service in accordance with the stipulations established by the Commission.

Article 83.-Inadmissible Costs. The calculation of Base Rates will not include as supply costs: financial costs, depreciation of equipment, costs related to generating installations property of the Distributor, costs associated to public lighting, charges for excess of demand in relation to the one under contract established in the Specific Regulation of the Wholesale Market Administrator. All additional payments of the power agreed in purchase and sale contracts and other costs that, in opinion of the Commission, do not correspond to the execution of the activity.

Article 84.- Period of Validity of Rates. Supplying costs for the calculation of Base Rates will be calculated every five years and will be based on the structure of one efficient company. The cost of supply for each voltage level will be equal to the sum of the costs of one efficient company.

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Article 85 .-Projection of Costs. Supplying costs for the calculation of Base Rates will be the average values representative of the costs estimated for a period of five years.

Estimation of costs will be determined to prices to the date in which the study is performed, taking into account the anticipated growth of the demand, expansion plans, and indicators of operation, and indicators of unitary costs determined by the Commission.

Expansion plans including the respective investment programs, will be submitted by the Distributor to the Commission. The Commission will verify their coherence to proceed to the approval in order to include them in the estimations of investment costs.

For costs estimations for a period of five years, the Commission will stipulate a group of indicators relating these costs to other parameters such as: assets, number of consumers, sales of energy, longitude of lines and others. Such indicators will point out efficiency levels including the analyses of the accomplishment of the previous period, which shall not be lower to those resulting of the real operation of the company in that period.

Article 86.- Prices of Energy for conversion into Distribution Rates. Before March 31 of each year, the AMM will submit before the Commission the calculation of the prices of energy and power converted into rates for each Distributor.

The methodology for calculation shall be established in the Specific Regulation of the Wholesale Market Administrator and shall be based in the following criteria;

- a) Costs associated to current contracts and/or to new contracts by open tender, will be used for the power price.
- b) The estimated price of the energy in the MM, will be used for energy.

The Commission will approve or will not approve such calculation. In case of non-approval the corresponding recalculation will be requested to the AMM.

Before April 30 of each year, the Commission will publish the rates to final users of each Distributor that applying from May first.

The price of high-end power in generation agreed in the calculation of distribution rates will be calculated in accordance with the methodology provided in the Specific Regulation of the Wholesale Market Administrator.

The calculation of the energy price will be as follows:

- a) For a period of 12 months from May to April, the expected dispatch is determined upon the daily batch per month, and per generating unit of the MM. The period of 12 months may be reduced by the Commission.
- b) This dispatch will result from the performance of a simulation of the operation of the MM taking into account: estimations of the demand, incorporation of new units to the MM; program of maintenance, fuel prices in force; restrictions to the operation of the STEE and characteristics of current contracts.
- c) The total monthly cost of energy supply of each Distributor is calculated considering the cost of purchase for each contract according to the dispatch performed, and the price/hour of energy in the MM for purchases in the MM.
- d) The total cost of power purchase is determined in accordance with the contracts of each Distributor with Generators.
- e) Balance of the Cost of Power (SCP), (*by its initials in Spanish*) (for its initials in Spanish), to transfer the energy, to the total cost per month of energy purchased under contract, minus the maximum power demand of the month estimated to the price of the high-end power in generation agreed for the calculation of rates of Distribution.

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f) Energy average cost per month to convert into distribution rates is calculated as the total cost per month of energy purchases plus The Balance of Power Cost (SCP), *(by its initials in Spanish)*, divided into the monthly energy purchased by the Distributor. To calculate a cost of energy per batch/hour, all values of the previous reference shall be calculated for batches of maximum, medium and low demand. In this case the Balance of Power Cost (SCP) will be estimated in function of the duration of each batch.

The amount of the Balance of Power Cost (SCP) shall be multiplied per Distributor and each voltage level, for the relation between expansion factors of medium losses of power, and then divided into the expansion factors of medium losses of energy.

g) The medium purchase price of energy to be converted into distribution rates will be the average estimated for energies for the 12 months of the year or for the smaller period specified by the Commission.

h) This price will be affected by the respective adjustment to the previous quarter, in accordance with the methodology indicated in the following Article of this regulation.

The Commission can determine that prices of energy to convert into rates of distribution be calculated per band/hour, and specifying the duration thereof.

When the quantity of contracts is suitable, the Commission can determine that the associated cost to those contracts may be converted directly into high-end power price and the concept of Balance of Power Cost (SCP) will not be used any more.

“Article 87.-Adjustment of energy price: (Amended by Article 18, Government Agreement No. 68-2007). Calculations will be made every three (3) months for the difference between medium power prices and energy purchases; and the respective medium price initially calculated to be converted into distribution rates.

To this effect, each month and within the first fifteen days, the Distributor will submit before the Commission, the supporting documentation of the costs incurred and the incomes earned during the previous month. The Commission will exam the documents of the report furnished by the Distributor, and if any doubt or disagreement about the information will carry out hearings with Distributors. At the end of the stage of hearings and in accordance with the methodology to fix the rates established in the General Law of Electricity, this Regulation and conditions of the contracts of supply, the Commission will determine the respective quarterly difference, that will be divided into the estimation of energy demand of the Distributor for the next three months, obtaining this way, the adjustment price that will apply to the energy price of the respective quarter.

The Commission will fix quarterly adjustments by resolution making it public to Final Distributors for its application and pertinent actions.

If after fixations of quarterly adjustments, the conclusion is that charges in favour or against the Distributor were included, those that should be applied this month or in previous adjustments, the difference has to be included as not adjusted balance in subsequent quarterly adjustments.

If any important variants in cost estimations or purchases or real costs, the Commission can stipulate in agreement with the Distributor an extension of the repayment period of the balance or the actualization of rates estimations.

Article 88.-Prices of Energy and Power at the input power of Medium Voltage Distribution Network.

High-end energy and potency prices at the input power of medium voltage Distribution Network, will be the energy and power at sub-transmission level that will be calculated by adding to energy and power prices calculated, in accordance with the stipulations of Article 87 of this regulation, transmission costs including transformation and transmission costs from sub-transmission system installations; and from installations not property of the STEE, used for electricity transmission from the STEE node to the Distribution network input power. For this calculation

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the following formulas will apply:

$$PESTb = PNEb * FPEST \quad PPST = PNP * FPPST + CST$$

Where:

- PESTb Energy price per batch/hour b to the input power of medium voltage system.
- PPST High-end power price to the input power of medium voltage Distribution network.
- PNEb Purchase price of energy agreed and correspondent to batch/hour b
- PNP Price agreed for power purchases.
- FPEST Expansion factor of sub-transmission medium losses of energy.
- FPPST Expansion factor of sub-transmission high-end power medium losses.
- CST Toll for the use of the sub-transmission system. This toll corresponds to the sum of all those tolls to be paid by the distributor for the use of the sub-transmission system.

In case of different supplying points to the Distributor, average purchase prices will be determined by the estimation of the prices of different supplying points by the corresponding amounts of power and energy.

If by the stipulations of the contract, the distributor is to be in charge of tolls for the use of the main and/or auxiliary transmission systems, the prices agreed per batch/hour will be expressed as follows:

$$PNEb = PEb * FPEsp * FPEss$$
$$PNP = (PP * FPPsp * PEAJEsp) * FPPss + PEAJEss$$

Where:

- PEb: Energy prices reported by the AMM
- FPEsp: Expansion factor of energy average losses in the Main System
- FPEss: Expansion factor of medium losses in the auxiliary system
- PP: High-end power price reported by the AMM.
- FPPsp: Expansion factor of power medium losses in the Main System.

FPPss: Expansion factor of power medium losses in the Main system.

PEJEsp: Toll and/or canon for the use of the Main System per unit of demand of high-end power.

PEAJEsp: Toll and/or canon for the use of the Main System per demand of high-end power unit

PEAJEss: Toll and/or canon for the use of the Auxiliary system, per unit of high-end power unit.

Article 89.- Calculation and Application of Base Rates. Base rates defined in Article 79 of this Regulation for each voltage level and their application in monthly periods will be determined as follows:

1. Charge of Consumer (CF).

It will be calculated as the relation between consumer costs and the average number of Consumers of the Distributor per year. This charge will apply monthly to each consumer thereafter called CF.

2. Charge for Power of Medium Voltage

2.1 Users with measuring of energy per batch/hour

Users in this category are measured per power/hour, which allows the identification of their participation in peak hours of the SNI.

The charge of power in medium voltage level includes the following:

- a) Charge per Distribution Power in medium voltage (CDMT), *(by its initials in Spanish)* calculated as the relation between Distribution costs corresponding to medium voltage level divided into the total sum of individual and maximum demands at the input power transformers of low to medium tension.

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The charge for distribution power in medium voltage is amended to consider power sales in non-peak hours.

- b) Charge for non-high end power in medium voltage is the price of sub-transmission High-end Power multiplied by the factor of power medium losses suitable to medium voltage and the coincidence factor of all those users whose maximum demand is generated in non-peak hours, plus the Charge for Distribution Power. The formula for this charge is as follows:

$$CFPMT = CDMT * Ffpta$$

Where:

CFPMT : Charge for non High-end power in medium voltage.

Ffpta: Factor of coincidence of all users whose maximum demand is generated in non- peak hours. This factor will be calculated as the relation between the Simultaneous Maximum Demand of users in this voltage and the Maximum Demands under contract thereof.

CDMT : Charge for distribution power in medium voltage.

- c) Charge for High-end Power medium voltage, price of sub-transmission High-end Power of multiplied by the factor of power medium losses corresponding to medium voltage, plus the Charge for Distribution Power. The formula is as follows:

$$CPMT = (PPST * FPPMT + CDMT) * Fpta$$

Where:

CPMT: Charge for high-end power in medium voltage.

FPPMT: Factor of power medium losses in the medium voltage network.

Fpta: Coincidental factor of all those users whose maximum demand is generated in peak hours.

The amount to pay per consumer resulting from the application of the aforesaid esteem is contained in the following relation:

$$=PUMT = CPMT * PPMT + CFPMT * (PTMT / PPMT * Fpta / Ffpta) + CF$$

Where:

PUMT: amount to pay per customer for medium voltage power

PPMT: high-end power in medium voltage in band/hour coincident with the maximum power of the SNI.

PTMT: power under contract in medium voltage.

When PPMT is bigger than PTMT, the second member of the equation will not be considered.

2.2 Customers not measured per batch/hour

This rate registers the maximum power of customer and its participation at the SNI point through a coefficient estimated based on charge characterization studies. These users are classified in:

- a) Customers with peak participation.
- b) Customers with peak low participation

The amount to pay by these consumers is deemed based on the previous concept in accordance with to the following relation:

$$PUMT = CPMT * Pmax * Contp + CFPMT * (PTMT / Pmax * Contp) + CF$$

Where:

Pmax: Maximum power registered in a demand measuring.

Contp: indexes reflecting peak participation of a group of users of similar behaviour whose maximum demand is generated out of peaks. This value shall be estimated based on the characterization of loading studies.

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When the product of P_{max} and $Contp$ is bigger than $PTMT$, it will not be considered the second member of the equation.

3. Charge for Low Voltage Power

3.1 Customers measured by demand/hour

The charge of power in low voltage level includes the following:

- a) Charge for Distribution Power in low voltage (CDBT) (*by its initials in Spanish*), calculated as the relation between distribution costs corresponding to low voltage level divided into the sum of maximum demands in low voltage phase.

The charge for Distribution Power is amended to consider power sales in non-peak hours.

- b) Charge for non High-end Power in low voltage, is the charge of the Distribution Power of low voltage multiplying the coincidental factor of all those users whose maximum demand is generated in non-peak hours. The formula of this charges is as follows:

$$CFPBT = CDBT * Ffpta$$

where:

CDBT : Charge for low voltage Distribution Power.

CFPBT : Charge for not High-end Power in low tension.

Ffpta: Coincidental factor of all users whose maximum demand is generated in non peak hours.

This factor will be calculated as the relation between the Simultaneous Maximum Demand of Users in this voltage and the sum of Maximum Demands of these users. For users with power under contract, this will be used as Maximum Demand.

- c) Charge of High-end Power in low voltage is the

charge for High-end Power in medium tension multiplied by the medium losses of power factor in low tension plus the charge for Distribution Power corresponding to low voltage level. The formula for this charge is as follows:

$$CPBT = (CPMT * FPPBT + CDBT) * Fpta$$

Where:

CPBT: Charge for High-end Power in low voltage.

CPMT: Charge for medium voltage high-end power

FPPBT: Power medium losses factor in the low voltage network

Fpta: Coincidental factor of all those users whose maximum demand is generated in peak hours.

The payable amount for one customer resulting from the application of the concepts previously expressed is contained in the following relation:

$$PUBT = CPBT * PPBT + CFPBT * (PTBT - PPBT * Fpta) / Ffpta + CF$$

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PUBT : Amount to pay per customer for power in low voltage.

PPBT : High-end power in low voltage. The demand of power per band/hour coincident with the maximum power of the SNI.

PTBT : Power under contract in low voltage. Maximum demand under individual contracts in low voltage.

When PPBT is higher than PTBT, will not be considered the second member of the equation. 3.2

This rate registers the maximum power of the customer and its participation shall be assumed in the SNI peak through a coefficient estimated based on loading characterization studies. These users are reclassified in:

Customers not measured per batch/hour

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a) Customers with peak

PESTb : Power price to sub-transmission level to batch/hour b.

c) Customers with peak low participation

FPEMT : Energy medium losses factor in medium voltage.

The amount to pay by these consumers is estimated based on the previous concepts and based on the following relation:

FPEBT : Energy medium losses factor in low voltage. b)

$$PUBT = CPBT \cdot P_{max} \cdot Contp + CFPBT \cdot (PTBT - P_{max} \cdot Contp) + CF$$

Rates of consumers not measured by batch/hour

Where:

Rates to consumers not measured for energy consumption per batch/hour will be calculated as follows:

Contp: Index reflecting peak participation of one group of users of similar behaviour, whose simultaneous maximum demand is generated in non-peak hours. Its calculation shall be made based on loading characterization studies.

$$PESTPM = \frac{\dot{O}DEM_b \cdot PE_b}{\dot{O}DEM_b} \sim$$

Where:

When the product of Pmax and Contp is higher than PTBT, it will not be considered the second member of the equation.

PESTPM : Power price to a medium sub-transmission level.

4. Charge for Power of Medium and Low Voltage levels.

DEM_b : Power demand of users not measured per batch/hour, in batch b.

a) Consumer rates measured per batch/hour demand

The charge for medium voltage power is the power price to a sub-transmission level multiplied by medium losses factor of medium voltage power. The charge for low voltage power is equal to the charge for medium voltage power multiplied by the factor of energy medium losses in low voltage. The formulas of these charges are as follows:

DEM_b values for each rate category will be obtained from Loading Characterization Studies that will be hired by each Distributor with specialized companies in accordance with the Terms of Reference elaborated by the Commission.

In accordance with this definition energy charges will be calculated in accordance with the following formula:

$$CEMTb = PESTb \cdot FPEMT$$

$$CEMT = PESTPM \cdot FPEMT$$

$$CEBTb = CEMTb \cdot FPEBT$$

$$CEBT = CEMT \cdot FPEBT$$

Where :

Where :

CEMTb : Charge for medium voltage energy corresponding to batch/hour b.

CEMT : Energy charge to users not measured per band/hour in medium voltage.

CEBTb: Charge for low voltage power Corresponding to batch/hour b.

CEBT : Power charge to users not measured per band/hour in low voltage

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c) Rates to Consumers without power measuring

Low voltage consumers without power measuring will pay a rate in function of the total consumed power calculated as:

$$\text{CUEBT} = \text{CEBT} + \frac{\text{CPBT}}{\text{NHU}}$$

Where :

NHU : Corresponds to a medium and constant loading factor of those consumers not measured for power consumption.

The NHU value will be obtained from loading characterization studies previously mentioned in this Article. The Commission can fix these values based on values obtained by Distributing companies performing programs of energetic efficiency.

Article 90.-Medium Losses Factors. Energy medium losses factor for each voltage level will be calculated as the inverse value of the difference between the unit and the unit price corresponding to energy losses. The formula for calculation is as follows:

$$\text{FPE} = 1 / (1 - \text{pe})$$

where:

FPE = Energy medium losses factor.

pe= Unit price of energy losses.

Energy medium losses factor for each voltage level will be calculated as the inverse value of the difference between the unit and the unit price of the corresponding power losses.

$$\text{FPP} = 1 / (1 - \text{pp})$$

where:

FPP = Power medium losses factor.

pp= Unit price of power losses.

Low voltage losses factor will include, besides technical losses, a percentage of non-technical losses corresponding to one efficient company based on the stipulations to be established by the Commission.

Article 91.- Add Value of Distribution. Add Value of Distribution (VAD) *(for its initials in Spanish)* The capital and operation cost of a distribution network of one efficient company of reference operating in one area of a determined loading density.

In formulas of Articles 88 and 89, VAD is related to the following variables: CDMT, CDBT, FPPMT, FPPBT, FPEMT, FPEBT, FPEST, NHU.

The first two variables (CDMT and CDBT) are called Components of Costs VAD (CCVAD) *(by its initials in Spanish)*.

The following four components are called Components of Loss of the VAD (CPVAD) *(by its initials in Spanish)*.

The NHU component is the typical hours of use of rates without measuring of power.

Article 92.- Adjustment Formulas of Costs Components of Distribution Add Value. Adjustment formulas of VAD costs components will be adjusted with representative formulas of costs structures calculated as a whole based on rates, according to the studies provided in Article 97 of this Regulation. An annual reduction factor will be considered also, taking into account the effect of economy scales and efficiency improvement to apply per year. These studies shall be approved by the Commission.

Article 93.- Reconnection Charges. Reconnection charges for each category of consumers will be calculated as fungible materials costs, manual labour, use of equipment and transport, necessary for the disconnection and reconnection of a typical consumer to the Distribution network. Such charges will be approved by the Commission by Resolution along with the approval of rates. Charges for reconnection will apply for service restoration to all consumers who have been sanctioned with supply cuts, in accordance with the Law and this regulation.

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“Article 94.- Payment Guarantee: (Amended by Article 19, Government Agreement No. 68-2007). All new users shall furnish a payment guarantee to the distributor. This guarantee shall be paid in cash or through bonds and will be calculated for each category of user as the amount equivalent to two average monthly invoices of a typical user of the same category. The Distributor may request the necessary actualizations of such payment guarantee when the consumption of the user is increased or reduced.

When the payment guarantee is made in cash will earn a remuneration of capital resulting from the application of the amount of the guarantee of payment, the average current rate of interest estimated per month of the banking system, published by Bank of Guatemala. At the abrogation of the contract, the Distributor shall make a liquidation including the initial amount of the guarantee, plus the total amount of interests earned and capitalized every year, deducting pending debts and the costs incurred by the user. This amount shall be refund not later than seven (7) days after the cancellation of the contract.

At the cancellation of the electricity supplying contract of one user who has paid the payment guarantee in bonds, the Distributor shall notify the user within the following seven (7) days maximum, the amount of pending debts and the cost incurred. The user has fifteen (15) days counted from the date of the notification, to cancel the requested amounts and the Distributor has to order the immediate cancellation of the bond. In case of non-payment the Distributor can make it effective.”

Article 95.-Approval of Rates. Rates to users of Final Distribution service, the formulas for adjustment, structure of rates determined in function to those rates, and charges for cut and reconnection will be approved every five years to be in force for the same period, except if the Commission may determine the need of an extraordinary revision of the base rate.

“Article 96.- Measuring and Invoicing: (Amended by Article 20, Government Agreement No. 68-2007). The Distributor will perform monthly or bimonthly the measuring of the required parameters for invoicing of all the users, and the application of the corresponding rate structures to obtain the amount of the invoices for electricity services. The amounts of rates and taxes stipulated by the Law will be added

to such amount, not considered in the calculation of the rates and directly related to the supply, in order to obtain the invoicing total amount to be included in the invoice.

The invoices will be issued monthly or bimonthly and will include all the necessary information determined by the Commission for verification and cancellation. The Commission shall authorize the inclusion of the rate for public light in case of any agreement between the Distributor and the municipalities.

The Distributor, in function to its commercial characteristics, may request the approval of the Commission to perform the measuring of the required parameters for invoicing during periods longer than those stipulated in this Article, or the establishment of other methods for the estimation of the consumption, if considered convenient. The distributor, in order to make easy to the user and in order to be in accordance with technical advances, shall perform the measuring and collection of payments for consumption, or for other concepts with new systems and technologies previously authorized by the Commission. To this effect the distributor shall submit the documentation or digital means containing all the detailed information about the proposed model and/or the system to be used.

Article 97.- Studies on Rates. The distributors can hire qualified and specialized consulting companies to carry out studies to calculate the components of Distribution Add value

The Commission will prepare a list of the qualified consulting companies to perform the studies on rates and the terms of reference for the contract, based on the concepts detailed in Articles 86 to 90 of this Regulation.

The studies will be based on target costs of one efficient Distribution Company. The Commission will determine the number of efficient companies of reference, characterized by their density of distribution, which shall be considered for the determination of VAD, and will classify the different Distributors or part of the Distributors, in each model of efficient company of reference.

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If one Distributor, due to reasons of different density in its different areas of distribution, may have parts of the density classified in different models of efficient company, the Commission shall determine a unique rate as a whole, resulting from the corresponding average estimated VAD, or the application of different rates for different areas of that authorized to render the service. The estimation will be performed based on the number of users of each area.

VAD calculated for each Distributor will take into consideration factors of simultaneity resulting from loading characterization studies adjusting the total demand of the authorization to the power amount under contract with their users plus the real losses.

The Distributor shall hire with specialized firms, pre-qualified by the Commission, loading characterization studies, in accordance with the Terms of Reference that will be issued by the Commission. VAD Studies shall be updated at the availability of the information on these studies.

“Article 98.~ Study Periods of the Price List. (Amended by Government Agreement No. 787~ 2003, of 5-12 ~2003, published on 1-16-2004 and came in force 1-17-2004 and Government Agreement No. 68-2007). Every five years and twelve months before the enforcement of the rates, the Commission will submit the Distributors the terms of reference of the studies that will be used as base to hire consulting companies specialized and pre-qualified by the Commission.

Four months before the enforcement of new rates, the Distributor will submit the study on rates to the Commission, including the resulting rate tables, justifications for each type of cost to include, and the respective formulas for adjustment, likewise the respective supporting report, the admissibility or inadmissibility of the studies performed by the consultant and the observations thereof.

The Distributor through the consulting firm, will analyze the observations performing the amendments to the studies, and will submit them to the Commission within fifteen days after the reception of the observations. If any discrepancies persist between the Commission and the Distributor, will proceed as stipulated in Article 75 of the Law.

The cost of hiring the third member of the Commission of Experts will be both on the account of the Commission and the Distributor. In case of omission by the Distributor to submit the studies or the amendments thereof, the Commission is entitled to issue and publish the corresponding list of rates based on the studies of the list of rates independently performed by the Commission or by making the amendments to the studies commenced by the distributor. The list of rates approved and published by the Commission will regulate from the first day of the expiration of the previous rate list.”

“Article 99.~Application of the Rates. (Amended by Government Agreement No. 787-2003, of 12-5-2003, published 1-16-2004 and came into force in 1-17-2004).

At the approval of the price list referred in previous Articles, the Commission will fix definitive rates from the date of the approval of the definitive study, and will proceed to its publication in *Diario de Centro America*, within a period not exceeding nine months counted from the expiration date of the authorization of five years for the previous list of rates. In case of the non publication of the new rate list by the Commission, the previous rate list will continue to apply with the adjustment formulas thereof. The rates will apply from the first day of the following month of the publication.

Not In any case the Final Distribution activity of the electricity supply can be performed without the rate list in force. Should one Distributor was not provided with the rate list, is responsibility of the National Commission of Electric Power to elaborate and put into effect immediately, a rate list in order to fulfil the aforesaid principle.”

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CHAPTER IV

CEILING PRICES OF ISOLATED SYSTEMS

Article 100.- Isolated Systems. The Commission in consideration of proper operation characteristics of respective Isolated Systems and by the application application as possible of the stipulations with respect of the SIN, will issue by Resolution, the procedures to follow in each case for the fixation of prices.

CHAPTER V

QUALITY OF THE FINAL DISTRIBUTION SERVICE

Article 101.- Responsibility and Scope. The Distributor is committed to give public distribution supply to all its users and Major Users located in its mandatory area within the zone of its authorization, and has to comply with the obligations of technical and commercial service stipulated in this regulation and in technical standards issued by the Commission.

Article 102.- Examination of the Quality of the Service. Accomplishment of levels of Quality Service will be examined by the Commission through the indicators stipulated in this Regulation and in Technical Standards issued by the Commission.

Article 103.- Parameters to Control. Quality service will be evaluated taking into account the following parameters:

1. Quality of the Product

- a) Voltage level,
- b) Lack of equilibrium in phases,
- c) Disturbances, rapid oscillations of voltage or frequency, and harmonic distortions,
- d) Interferences in communication systems.

2. Quality of technical service.

respectivo Sistema Aislado y q q p
pondientesestipuladosparaelsIN,emtirámediant

- e) Mediumfrequencyof interruptions,

Resolucinlosprocedimientosaeguirencadacas

- f) Total time of interruptions,
concretoparalafijaciondepredios.

- g) Non supplied energy

3. Quality of the commercial service

- h) Claims of consumers,

- i) Invoicing,

- j) Consumers Service.

Quality goals of service and sanctions by non-fulfilment canbe fixed in a regional way, in order to take into account local costs associated to the attention of the service and consumption characteristics.

“Article 104.- Information to evaluate the Quality Service: (Amended by Article 22, Government Agreement No. 68-2007). The distributor is bound to perform on his account, the registration of the information for the determination of the indicators described in this Regulation according to the stipulations of technical standards issued by the Commission.

All processed information, shall be stored by the Distributor in computing records easy to access during a period not less than five (5) years. The information shall be available at any moment for the Commission. The Distributor will submit quarterly reports according to technical standards issued by the Commission including at least the following:

- a) Indexes or indicators of the continuity of the supply, voltage profiles, deviations to admissible limits and unbalances between phases above the admissible limits in each node in which the distributor purchases electricity and others defined by the Commission.

- b) Quantity of claims received during the semester, classified by cause and including average time for solution.

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- c) Quantity of invoices issued per type of consumer and indexes of the estimations performed, per reason for the estimation.
- d) Quantity of services performed in groups per type of consumers, power band and cases in which modifications to the network are necessary, specifying the average time for execution.
- e) Quantity of cuts performed by non payment during the semester, showing the average times for the restitution of the supply after payment.

Registration of those cases in which the established periods for the restitution of the supply was exceed including the data of the affected consumer and the time elapsed until the restitution of the supply.

- f) Quantity of claims by group as stipulated by the Commission.

The Commission, within its rights to investigate and control, can audit any stage of the process for the determination of indexes, and may request periodical and extensive reports of the updated information. In order to meet these goals, the Commission can hire specialized consulting companies.”

Article 105.- Continuity of Supply. Quality service will be evaluated based on indexes or indicators reflecting the frequency and total time of supply interruptions to be calculated with the methodology stipulated in the NTSD. The Distributor is considered not in fulfilment with the quality level of technical service when exceeding the admissible values for each index at each stage, as defined in the NTSD.

When long lasting failures occur at a transmission-generation level, the Distributor of Public Service shall pay the users subject to price regulation, for the kilowatts/hour (kWh) rationed.

The amount of the indemnity per kilowatt/hour (kWh) willbe the Failure Cost, which willbe fixed by the Commission at the moment of the fixation of distribution rates

When short time failures occur, exceeding technical standards, the distributor will give its users a discount in the monthly payment for power. The discount will be proportional to the hours of failure with respect to the total number of hours/month. The amount of the indemnity will be discounted from the invoice of the following month of the failure.

Indemnities provided in this article willbe paid to the users affected by one credit in the invoice immediately after the period of control, according to the NTSD. The users deserving such indemnities will be supplied by the installations in which long lasting or short time failures occurred. For those cases in which the measuring point corresponds to a group of users, the total amount of the indemnity will be entered in an accumulation account, to be distributed among the whole group of users in proportion to the consumption of each user and in relation to the group.

“Article 106.- Claims of Consumers: (Amended by Article 23, Government Agreement No. 68-2007). All claims from Consumers for deficiencies in the service, willbe received and registered by the Distributor, with a correlative number, name of the Consumer, date and time of the reception and the reason thereof, through the auditing computing system allowing the follow-up until its resolution and reply to the Consumer.

To this purpose, the Distributor shall bring its users an efficient commercial service attending interruption claims in the electricity supply 24 hours a day.”

Article 107.- Issuing of Invoices. The Distributor have to issue invoices clear and correct for electricity consumption as stipulated by the Law, and technical standards that may be established by the Commission.

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If deficiencies of limitations exceed in the invoicing established in the NTSTD, or if the non-acceptance by the Commission of the basis presented, the Distributor will be subject to fines established for those cases in this Regulation and in the NTSD.

Article 108.- Information to the Consumer. Distributors shall inform its users, at least about the following aspects: the addresses of collecting agencies of the Distributor, their telephone numbers for reception of failure claims in the supply, and a notice to be agreed with the Commission including the address and telephone number to make possible the presentation of the claim.

When one Distributor has to interrupt the service in any section of the network, for maintenance, repairing, or connection to new users, or improvements, it has to advise the users forty-eight hours in advance, through the publication in one of the larger circulation newspapers.

Article 109.- Attention to Consumers. Requests of Consumers to the Distributor in the different type of service shall be stipulated under the approved procedure by the Commission and within the period established by the NTSD. In case such periods exceed, the Commission will apply fines as stipulated in the NTSD.

Article 110.- Reestablishment of the Supply. From the moment that the Consumer pays those payable invoices plus the stipulated charges, the Distributor shall restore the electricity supply within twenty four (24) hours after the payment.

The non-fulfilment of the term for the supply restoration, gives the right to apply the sanctions established in the technical standards that may be issued by the Commission.

“Article 111.-Claims Recording Book. (Amended by Article 24, Government Agreement No. 68-2007). The Distributor shall make available to the consumers at each commercial attention center, a claim book, with folios numbered and notarized, in which the user is able to note its claims regarding the service., In case of not receiving the service or not being attended as established in technical standards issued by the Commission.

The Claim Book shall be available to the Commission at any time. The Commission, on its part, will make available to the users, claim books at the entities of the State as it deems convenient, previously the suitable coordination with such entities.”

Article 112.- Veracity of the Information. It is the responsibility of the Distributor to submit before the Commission, the necessary information for the evaluation of the quality service, as established by this Regulation and technical standards that may be issued by the Commission. The concealing or distortion of the information that the Distributor is to submit to the Commission for the control of the quality service will be deemed as a serious fault and shall be sanctioned as such.

Article 113.- Non-submission of Information. The Distributor is compelled to submit the Commission with the information necessary for the evaluation of the quality of the service as stipulated in this Regulation. The non-fulfilment will become the application of sanctions established in the NTSD.

Article 114.-Surveys. Every year the Distributor will perform at its own cost, a representative survey to those consumers located in the zone in which it renders the service. In this survey consumers will qualify the quality service received as indicated in this Regulation and in any other established by the Commission.

The survey will be designed by the Commission and shall be performed through specialized companies registered before the Commission. The selection of consumers shall be at random, taking into account the records, which to this affect the Distributor will furnish included in standard computing means. The Commission shall appoint a representative to verify the selection at random of Consumers. The results will be communicated directly to the Commission and the Distributor.

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The Commission will perform the 31st of December each year, a classification of the companies regarding its quality service, upon the survey and the representative index of quality service. This classification will be informed publicly in a newspaper of larger circulation.

TITLE VII SANCTIONS

CHAPTER I GENERAL STIPULATIONS

Article 115.-Fulfilment of the Law, this Regulation and firm resolutions of the Commission. All person or company operating under any right, electric installations, have to act in fulfilment of the Law, this regulation and the resolutions issued by this Commission under the application of the pertinent sanctions.

In case of sanctions with fines, these shall be expressed in terms of the power component of the rate applicable to one kilowatt/hour to the level of the residential rate of the City of Guatemala, corresponding to the first day of the month in which the fine is applying.

To the purposes of the application of sanctions with fines, each day elapsed without the adjustment, by the infringer of the Law stipulations and its regulations, subsequent to the order that to this effect, has been notified by the Commission, will be deemed as a different infringement.

Article 116.- Rank of Sanctions. As to the users, sanctions with fines will comprise the rank from one hundred (100) to ten thousand (10,000) kilowatt/hour, and for the generators, carriers and distributors in the rank from ten thousand (10,000) to a million (1,000,000) kilowatt/hour, in all cases it depends of the seriousness of the fault, as deemed by the Commission.

Article 117.- Non-Application of Sanctions. Sanctions will not apply in unforeseen situations,

duly considered as such cases by the Commission.

CHAPTER II

SANCTIONS TO WHOLESALE MARKET PARTICIPANTS

Article 118.- Cases for Sanctions Application. Agents and participants of the Wholesale Mark will be sanctioned in the following cases:

- a) The non-fulfilment of coordination standards issued by the AMM.
- b) The non-fulfilment without justified reason of programs designed by the AMM for real time operations of generating units of transmission systems.
- c) The non-payment concerning power and energy transmissions in accordance with the AMM.
- d) The non-submission of the information requested by the AMM, or the non-fulfilment of the terms and periods stipulated in the regulation.
- e) The non-submission of the information to the AMM about prices and quality of fuels used in thermal power stations.
- f) The non-fulfilment of definitive programs for overhaul of generating units or transmission lines.
- g) The non-payment for the operations of the AMM.
- h) The submission of false information.
- i) The non-fulfilment of the resolutions or technical standards stipulated by the Commission.
- j) Any other infringement of the Law or this Regulation, otherwise stipulated in the previous items.

Article 119.- Sanctions by the non-fulfilment of Periods for the Submission of Information. The owners of installations for generation, transmission and Distribution of electricity will be sanctioned by the Commission by the non-fulfilment of the periods stipulated for the submission of technical and economical information necessary for the operations of the Wholesale Market.

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CHAPTER III SANCTIONS TO CARRIERS

Article 120.-Acceptance of the Regime of Sanctions. Authorization of Carrier Contracts shall include a clause of the acceptance by the Carrier of the regime of sanctions by the non-fulfilment of the obligations and the quality service as stipulated by the Commission.

Article 121.- Criteria for the Establishment of Sanctions. The amount of sanctions to apply for Force Unavailability will be proportional to the amount paid for Connection and Toll of the equipment under consideration taking into account the following aspects:

- a) Duration of unavailability in minutes.
- b) Number of forced outs of the service.
- c) Over costs produced by its restrictions in the electric system.

The amount of the sanctions for lines in Forced Unavailability conditions shall be lower to the corresponding remuneration earned per year by Tolls divided into the number of hours per year.

Article 122.- Category of the Lines. Force Unavailability lines will be sanctioned according to the Category in which each line was included. To such effects, the lines will be classified in a decreasing way according to over costs calculated by the AMM, in groups as follows:

Category A: Includes the group of lines that from the biggest over cost, accumulates seventy five (75%), of the over costs attributed to the STEE.

Category B: Includes the group of lines accumulating the following twenty percent (20%) of the over costs attributed to the STEE.

Category C: Includes lines not considered in categories A and B.

The Commission will determine based on the

studies to be performed by the AMM, the lines comprised in each category. And at the incorporation of new lines making important modifications to the Electric System topology it will make the revision of the assigned qualification.

Article 123.- Sanctions by Unavailability. Unavailability of lines will be penalized with accumulative sanctions associated to non-programmed out of services or non-authorized by the AMM, separating short and long lasting failures. The sanction by unavailability will not apply if time is less than 10 minutes. The accumulated period in one line will be one calendar year.

Article 124.- Automatic Disconnections. Forced Unavailability of Lines making necessary to activated automatic disconnections of generation and/or loading, not previously activated, will be sanctioned in a separated and additional way. To this effect, the Commission will determine the increase to the corresponding sanctions during the period in which such devices are activated.

Article 125.- Reduction of Transmission Capacity. At the occurrence of reductions in Transmission Capacity, being understood as such, those partial limitations of transmission capacity of one line because of due to unavailability of the associated equipment, the Commission will apply sanctions by the forced unavailability of the lines, in proportion to the reduction of the capacity. The maximum and minimum reduced capacity will be determined by the AMM upon operations and reliability in normal conditions.

Article 126.- Unavailability of the Compensation System. The sanction to apply by force unavailability of the reactive power equipment, being understood as such, reactors and capacitors parallel, synchronic and static compensators will be proportional to the Penalization by Deficit of Reactive, to be established by the Commission in the NTCSTS. Proportional factors applicable to these sanctions will determined by the Commission. .

Article 127.- Regulation of Voltage. If the Carrier operating in normal conditions, by reasons attributed thereto does not comply with the power levels

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stipulated in NTCSTS will be sanctioned according to and also as Forced Unavailability of the equipment necessary to be installed to meet the required power levels.

It is understood by normal conditions the situation in which all equipment is in service and the Generators and Users are maintained within the reactive power production or consumption limits provided in the NTCSTS.

Article 128.- Sanctions for Programmed Unavailability. The sanction to apply on the equipment considered in Programmed Unavailability will be fixed by the Commission at the percentage suitable to those assumed for Forced Unavailability.

Article 129.- Exception. If the Carrier performs maintenance duties in hours that it has to be out of service due to operation requirements, according to the programmed operations stipulated by the AMM, no sanction will apply.

Article 130.- Information of Unavailability. Carriers have to inform the AMM with veracity of all those unavailability situations of the equipment subject to authorization, within the fifteen (15) minutes counted from the moment of the occurrence. In case of proving that the Carrier had omitted such notice, the respective fine will be double.

Article 132.- Amount of Sanctions. For the The AMM shall inform the Commission about all recent unavailability and shall be responsible for the

application of the sanctions.

The Commission will establish in the NTCSTS the regime of sanctions by non-fulfilment or errors in the Commercial Measuring System.

Article 131.- Maximum amount for sanctions. The amount for sanctions by any concept imposed to each Carrier shall not exceed the maximum percentage of its monthly incomes as determined by Commission; being understood by monthly income Tolls or cannon for Transmission in accordance to the case. Authorization Contracts will stipulate that the case exceeding this percentage will become the abrogation thereof.

determination of the amount of the sanctions, coefficients for the calculation will apply per price/hour, included in the NTCSTS. Sanctions will be based on cost evaluations incurred by the generators and users due to failures and will be revised by the Commission every five years.

Remuneration/hour annual Toll perceived by the Carrier for one installation divided into 8,760 hours.

Article 133.- Application of sanctions. The Commission will establish in the NTCSTS the way in which the perceived amounts for sanctions are to be used to reduce major costs of electric power or to compensate directly those affected by bad quality service.

CHAPTER IV

SANCTIONS TO DISTRIBUTORS

Article 134.- Sanctions to Distributors. Companies authorized for Final Distribution service will be sanctioned with fines in the following cases:

- a) The non-fulfilment of the periods stipulated in this Regulation for the installation of electricity supply.
- b) The non-fulfilment of the period indicated in this Regulation to repay reimbursable contributions.
- c) The non-performance of surveys as indicated in this Regulation.
- d) The non-fulfilment of quality service requirements provided in the NTSD prepared by the Commission.

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- e) The non-fulfilment of the safety measures provided in the NTSD during maintenance, repairing, connections with new users or improvement activities.
- f) The non-fulfilment of safety standards of the service installations established in legal regulating and standard stipulations.
- g) The charge of rates higher than those fixed as maximum.
- h) To keep in service defective measuring instruments altering registrations.
- i) The non-submission to the Ministry or to the Commission of the required information within the periods stipulated, or the submission of false information.
- j) To give to the rights a different use otherwise authorized.
- k) The non-performance of financial contributions corresponding to the Commission.
- l) The non-fulfilment of resolutions or technical standards ordered by the Commission.
- m) Any other infringement to the Law or this Regulation, otherwise not included in previous items.

Article 135.- Application of sanctions to distributors. The Commission will stipulate in the NTSD, the way in which the amounts perceived by sanctions with fines, will be used to compensate directly those affected by bad quality service.

CHAPTER V

SANCTIONS TO USERS

Article 136.- Sanctions to Users. Users of Final distribution service will be sanctioned with fines as stipulated by the Commission, when incurred

as follows:

- a) Alteration of consumption measuring instruments installed by authorized companies to render public distribution service.
- b) Performance of fraudulent consumptions.
- c) Refuse the access to the property to the staff of the distribution company for inspections and measuring of consumptions.
- d) When users produce disturbances exceeding the limits fixed by the Commission. The Distributor is compelled to take actions upon the users, in order to keep the established disturbances limits, the non-fulfilment will be sanctioned by the Commission
- e) Any other infringement of the Law, this Regulation or standards issue by the Commission.

In all cases, these sanctions do not exonerate the user to pay the authorized company that is rendering the service, for the fraudulent service performed, plus interests and repairs that have to be made by the company due to the deterioration caused, and this not in detriment of criminal responsibilities derived from these facts.

CHAPTER VI

PROCEDURES FOR THE IMPOSITION OF SANCTIONS

Article 137.-Official Investigation. The Commission is entitled to initiate an investigation to become acquainted and conduct the infringement of the Law and its regulations, under its own judgement or coming from accusations.

Article 138.- Discharge of Sanctions. When in the opinion of the Commission any natural or juridical person has committed an infringement that may be sanctioned, the fact will be reported to the infringer giving it ten (10) working days to submit all the

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facts circumstances and rights for discharge. If the accused may accept its responsibility, the Commission within the same period will apply the sanctions as stipulated.

Within the aforesaid period the supposedly infringer may submit before the Commission, arguments,, records and other judgement elements convenient for its defence. The Commission will decide definitively within the following fifteen (15) calendar days to the submission of the elements for discharge.

Article 139.- Proof Documents. All means of proof legally admissible by the criminal law in force will be admitted before the Commission. Documents presented as proof will be submitted in original and simple copy or photocopy. However, the Commission can request in writing the submission of the original and legal copy or photocopy of the document.

Article 140.- Nature. Proceedings before the Commission will be official.

Article 141.-Content of Petitions for Discharge. The first petition before the Commission shall include:

- 1 Complete names and surnames of the petitioner, age, civil status, nationality, occupation and place for notifications. When the petitioner is not acting on his own behalf, this has to accredit its representation.
- 2 Relation of the facts referred in the petition.
- 3 Petitions that are being expressed.
- 4 Place and date.
- 5 Signature of the petitioner.

In subsequent petitions, it will not be necessary to provide identification data indicated in item first, except complete names and surnames.

The omission of one or several of numbered requirements, will not be a reason to reject the petition. The commission will indicate the petitioner the deficiency or deficiencies encountered and will determine a period for rectification. After such period if those requirements are not fulfilled, the Commission will proceed to file away the petition.

The Commission cannot refuse itself to receive any request made in writing. All rejections shall be duly explained and supported by the Law.

Article 142.- Procedures before the Commission. Procedures before the Commission may be personal or through legal representation. Legal representatives can accredit its legal representation upon copies authenticated justifying the documents thereof.

Article 143.-Way of payment. All fines imposed by the Commission shall be paid in full by the infringers within the first 7 days of the following month of the reception of the respective notice.

The amount of the fines will become part of the private funds of the Commission. The resolution of the Commission will be used for executive bond for the economic-coactive procedure.

Article 144.- Reports. Reports shall be made in writing to the Commission. Reports have to include the identification of the reporter, the clear specification of the report including date and time if pertinent, and any other information or documentation to prove the facts reported.

The non-fulfilment of the required information in this Article will not allow the Commission to process the course of the filed report.

Article 145.-Investigation of Reports. At the reception of the report,the Commission will notify the interested party, will arrange the pertinent investigation and will submit its decision in a period of 30 days maximum. In case the decision of the Commission is not to formulate charges, it shall notify the parties and to the close the case.

Article 146.- Formulation of Charges. If the Commission finds evidence to formulate charges, it will notify the parties involved in order to file proofs for discharge within ten (10) days maximum counted from the following day of the respective notice.

Article 147.-Resolution. After the expiration of the

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period established in the previous article, the Commission will decide on the matter within a period of fifteen (15) days maximum through the firm resolution which will be notified to the plaintiff and the defendant party.

In case of a resolution to apply a fine, this shall be paid in full by the accused within the periods established in this regulation.

Article 148.- Notices. All notices shall be made in person or by registered letter.

TITLE VIII ADMINISTRATIVE RESOURCES

“Article 149.- Administrative Resources. (Amended by Article 25, Government Agreement No. 68-2007). Against definitive resolutions issued by the Commission, the Repealing of the Resource can be admitted. All related to this Resource will be regulated according to the Administrative Dispute Law, Decree 119-96 of the Congress of the Republic and the Reforms thereto.

TITLE IX TEMPORARY STIPULATIONS

Article 1. Adjustments Period of the Power Measuring System by Distributors: (Temporary, Government Agreement No. 256-97 of March 21st of 1997, published 4/2/1997). One year period is stipulated, counted from the date of the publication of this regulation, for the distributors to change their measuring systems in order to measure high-end power. During this period all distributors may continue using the current systems of measuring and invoicing of maximum demand.

Article 2. System for current companies: (Temporary, Government Agreement No. 256-97 of March 21st of 1997, published 4/2/1997). Natural or juridical individuals who, in the fulfilment of the stipulations of Article 3 of the temporary stipulations of the Law, may be obliged to split or to transfer in

anyway their assets of generation, transmission or distribution, will be allowed to cede current generation contracts to new companies. In case of own generation they will be allowed to subscribe contracts for this generation with their distributors or other distributors they are actually supplying.

Distribution companies formed as indicated in this Article, and in a period stipulated by the Law, will be classified as Service Distributors of Final Distribution. For the assignment of the authorized zone for the distribution service, these companies shall file a petition before the Ministry for the pertinent authorization.

Companies formed for Transmission or Generation will be classified respectively. To this effect, only the submission of the petition to the Ministry with the specifications of the activity and the description of their installations are necessary; and the Ministry will proceed to grant the respective authorization.

Article 3.- Tender Bases to add new generation: (Temporary, Government Agreement No. 256-97 of March 21st of 1997, published 4/2/1997). If the Commission has not been integrated, or in case the Commission has not prepared the terms of reference for open tenders in accordance with the Law and in order to add new generation through energy and power purchases by distribution companies. Distribution companies are allowed to elaborate their tender bases filing a copy thereof to the Ministry for its approval or to the Commission if already integrated.

Article 4.- First Budget of the Commission. (Temporary, Government Agreement No. 256-97 of March 21st of 1997, published 4/2/1997). The Commission within the following 30 days of the date of its conformation will elaborate and publish the incomes and outcomes budget for the rest of the year 1,997; and will fix a percentage of the contributions that have to be paid by electric distribution companies. Such contributions shall be paid from the following month after the publication of the budget, in accordance with the stipulations of the last paragraph, of Article 31 of these regulations.

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Article 5.- Fixation of Investment Annuities of Current Installations of the Main Transmission System: (Temporary, Government Agreement No. 256-97 of March 21st of 1997, published 4/2/1997). To fix investment annuities of current installations of the main transmission system, those transmission company or companies proprietors of these installations destined to perform electricity transmission and transformation activities, will submit to the Commission, 30 days after the publication of this Regulation, a study of costs allowing the determination the new replacement prices of such properties in order to fix tolls prices, in case the impossibility to be freely agreed among the parties.

Article 6.- Publication and Validity of the First Fixation of Rates and Tolls. (Temporary, Government Agreement No. 256-97 of March 21st of 1997, published 4/2/1997) –Base rates and tolls referred in Article 2 of the Temporary Stipulations of the Law, shall be published by the Commission in the official journal. These stipulations will come into force the following day of its publication and will rule during a two year period, counted from the date of the publication.

Article 7.- Stages of Implementation. (Temporary, Government Agreement No. 256-97 of March 21st of 1997, published 4/2/1997). The methodology for the evaluation and control of quality service indicators, established in Article 104 of this Regulation, will be performed in four (4) stages on increasing demand levels in accordance with the following details:

- a) Preliminary stage: Will rule from the validity of this Regulation and will last up to six (6) months, after the first fixation of rates by the Commission. During this stage, the Distributor under supervision of the Commission; has to implement and establish the methodology evaluation and control of quality service indicators to apply in the following stages.
- b) Testing Stage: Counted from the expiration date of the preliminary state and will last six (6) months. During the testing stage the Distributor have to run the testing methodology established in the preliminary stage consisting in dismissing the respective information and the calculation of

the respective indexes in order to guarantee the beginning of the next stage, with all the mechanisms for removal and adjusted controls.

- c) Transition Stage: Will start at the end of the testing stage and will last twelve (12) months. This period will require the fulfilment of the indexes and prices prefixed for this stage. The transition stage is to allow the Distributor to adapt its installations and systems for the obtainment of the information in order to meet the requirements of quality service established for the regime stage. During this stage and under the supervision of the Commission, the controlling methodology will be adjusted to apply during the corresponding stage. .
- d) Stage of Regime: Will start from the date of the end of the transition stage. For this stage, the Distributor shall have systems for the obtainment and administration of the information to make possible for the Commission to execute the controls provided in this Regulation.

During the transition stage, the controls shall be executed through global indexes to the supplies in the different power levels. During the stage of the regime, the service rendered will be controlled at each supply in high and medium power. During this stage the application of sanctions will start both for the distributors and users as stipulated by this regulation.

Article 8.- Appraisal for the Application of Indemnities. (Temporary, Government Agreement No. 256-97 of March 21st of 1997, published 4/2/1997). The application of indemnities provided in Article 106 of this regulation and in the NTSDS will be performed upon the same appraisal as stipulated in the quality service in accordance with the stipulations of the previous Article.

Article 9.- Appraisal for the Application of the Regime of Sanctions on Transmission Quality Service in Current Installations. (Temporary, Government Agreement No.256-97 of March 21st of 1997, published 4/2/1997). The regime of sanctions

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stipulated on transmission quality service in current installations, will apply step by step in accordance with the following stipulations:

- a) During the first six (6) subsequent months to the date in which the carriers begin to receive the remuneration of tolls stipulated in this Regulation, sanctions will not apply.
- b) During the second period of six (6) months, will apply a third of the nominal value of the stipulated sanctions.
- c) During the third period of six (6) months, will apply two thirds of the nominal value of the stipulated sanctions.
- d) After this period will apply the nominal value of the stipulated sanctions.

For enlargement and new installations of the Transmission System after the enforcement of these regulations, the Item "d" of this regulation will apply.

Article 10.- Validity of the General Conditions of Distribution Service. (Temporary, Government Agreement No. 256-97 of March 21st of 1997, published 4/2/1997). General conditions of distribution service established in Articles 65, 66, 68 and from 71 to 74 of this Regulation; will come into force one month after the establishment of rates in accordance with Article 2 of the temporary stipulations of the Law. Articles from 71 to 74 will apply only to those works started after this dated.

Article 11.-Studies and/or Explorations in Process of Development and Construction. (Temporary, Government Agreement No. 256-97 of March 21st of 1997, published 4/2/1997). Those companies, which before the validity of this Regulation have started constructions of generating plants, studies and/or explorations of hydraulic and/or geothermal resources, shall submit the petition for the temporary or definitive authorization to the Ministry in order to proceed to the evaluation of each case. The Ministry will be entitled to request all the information deemed convenient. The Ministry will grant the pertinent authorization and will proceed to the preparedness of the respective contract.

To this effect, the mechanisms for tenders established in Article 15, and those related to the awarding of authorizations of Article 16 of this regulation will not apply.

Article 12.-Procedure for the constitution of the first National Commission of Electric Power (Temporary, Government Agreement No. 256-97 of March 21st of 1997, published 4/2/1997).

The constitution of the first Commission will proceed as follows:

- a) The Ministry will publish the announcement for the election of the list of three candidates in two newspapers of large circulation.
- b) University rectors of the Country, will meet at the place and date stipulated by the Ministry in the announcement for the election of the list of three candidates. This election will be held by simple majority of the attendants. In order to make valid the decision, the quorum must be at least the half plus one of those rectors. In case the necessary quorum is not achieved, the rectors shall meet the following day at the same place and hour and will proceed to the election with the number of those appearing.
- c) For the election of the first list of three candidates by the Wholesale Market Agents, the Ministry has to stipulate separated registrations for Generators, Carriers and Distributors. The companies dedicated to one or more of these activities have to make their registration in the activity in which they have a higher percentage of participation in the National Electric System. In this opportunity, traders, importers, and exporters will be considered as distributors. The companies to be accredited have to exceed the limits established in Article 39 of this regulation.

The Ministry shall determine the deadline for accreditation. After this dated, the Ministry shall call the companies registered for the selection of one elector for each activity who can be elected by simple vote. Each elector will propose candidates to integrate the list of three candidates.

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For the election of the list of three candidates to be proposed to the Executive, the Ministry shall determine the date and this will be announced to the three electors. These electors will have three votes each and will vote as they deem convenient. They can give inclusive, the three votes to only one candidate. The three candidates with more votes will form the list of three candidates that will be proposed to the Executive.

The process for the nomination will not be interrupted by the fact that one or more activities do not achieve the election of their elector. If any tie among two or more candidates for the determination of the third member of the list of three candidates, a second round will be performed but only among the candidates the same number of votes.

In unforeseen cases in this article, the Ministry will decide as it deems convenient.

Article 13.- Validity. (Temporary, Government Agreement No. 256-97 of March 21st of 1997, published 4/2/1997). This Regulation will come into force the following day of its publication in the official journal.

Article 26. Transmission System Expansion Plan: (Temporary, amended by Government Agreement No. 68-2007). Until the creation of the specialized Technical Organism by the Ministry of Energy and Mines, the Transmission System Expansion Plan, will be prepared and executed by the National Commission of Electric Power.

Article 27. Public Tender to Add New Generation: (Temporary, reforms by Government Agreement No. 68-2007). Until the preparation of the Generation Expansion Plan referred in Article 15 Bis of the Regulation of the Wholesale Market Administrator, the Commission will perform along with the distribution companies, the whole analysis of current state of contracting of the requirements of power and energy supplies. If the result of the analysis determines the need of contracting, an open tender will proceed in accordance with the stipulations of Article 65 Bis of this Regulation. The Commission, only in this case, will determine the anticipation period and the bases to perform the open tender."

Article 28. Current Contracts (Temporary, reforms Government Agreement No. 68-2007) To the effects of the conversion of costs into rates to regulated users, and from the enforcement of this Government Agreement, distributors cannot extend the period of current contracts.

Article 29. Transmission System Enlargement by Public Tender (Temporary, reforms Government Agreement No. 68-2007). In order to satisfy the urgent needs of the National System Interconnected, the process of Public Tender for the execution of the first Transmission Expansion Plan, will be executed by the Commission.

Article 30. Validity. (Transmission, reforms Government Agreement No. 68-2007) This Agreement comes into force from the following day of its publication in Diario de Centro América.

Note:

The Government Agreement No. 256-97 was published on April 2, 1997, in the official journal and came into force April 3, 1997.

Note:

The Government Agreement No. 68-2007 was published on March 5, 2007 in Diario Oficial de Centro América and came into force March 6, 2007.

OFFICIAL COMMUNIQUE

ALVARO ARZÚ

The Minister of Energy and Mines

LEONEL LOPEZ RODAS"